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REPORTS OF COMMITTEES

OF THE

SENATE OF THE UNITED STATES

FOR THE

FIRST SESSION OF THE FIFTY-FIRST CONGRESS.

1889-'90.

IN TEN VOLUMES.

Volume 1.—Nos. 1 to 300, inclusive.
Volume 2.—Nos. 301 to 643, inclusive.
Volume 3.—Nos. 644 to 829, inclusive.
Volume 4.—Nos. 830 to 927, inclusive.
Volume 5.—No. 928, parts 1, 2, and 3, Irrigation.
Volume 6.—No. 928, parts 4, 5, and 6, Irrigation.
Volume 7.—Nos. 929 to 1304, inclusive.
Volume 8.—Nos. 1305 to 1466, inclusive
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51st Congress, 1st Session. | SENATE. | Report No. 1467.

IN THE SENATE OF THE UNITED STATES

July 9, 1890.—Ordered to be printed.

Mr. Wilson, of Maryland, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 1688.]

The Committee on Claims, to whom was referred the bill (S. 1688) for the relief of Jacob Kern, respectfully report that a similar bill was favorably reported from this committee during the last Congress and was passed by the Senate; that the report then made is hereby adopted, and the passage of the bill is recommended.

The object of this bill is to authorize and direct the Court of Claims, notwithstanding any bar of the statute of limitations to the contrary, to consider and adjudicate upon its merits the claim of Jacob Kern, now pending in said court, which seeks payment for army wagons furnished by him to the quartermaster of the United States at Saint Louis, Mo., in the years 1864 and 1865. The recitals in the preamble of the bill, which are all sustained by the proof, go far to show that claimant is entitled to the relief sought. There is a large mass of testimony already taken in the Court of Claims tending to establish still further the justice of the claim. The averments in excuse of apparent laches are the misplacing of the vouchers for the wagons, which were sold by an agent during the illness of the claimant, which was protracted long after the transactions occurred, and their subsequent accidental loss by fire. The light thrown upon the case by an examination in 1883 of the books, papers, and accounts of General Meyers, the aforesaid quartermaster, made by James McKenna, who had been connected with the quartermaster's department for twenty-seven years, first enabled the claimant to present his account to the Government with a reasonable hope of success.

An extract from the affidavit of McKenna is given below, which shows the nature and extent of his testimony. Other facts developed in the testimony before the Court of Claims affix a character of probable justness to the claim to such an extent as to excite a reasonable apprehension that a refusal to continue the hearing already begun before the Court of Claims might work the gross injustice of the appropriation of a large amount of a citizen's property by the United States without due and honest payment therefor. Your committee therefore recommend the passage of this bill.

[Extract from affidavit of James McKenna.]

Affiant further states that some time in the year 1873 he was requested to investigate a claim of Jacob Kern for wagons furnished to the quartermaster's department during the latter part of 1864 and including the first half of January, 1865. That affiant, at that time, was unable to get access to the papers and books of General Meyers, and consequently made only a casual examination into the matter; and, if he remembers correctly, request was made for Major Woods to investigate the matter.

Affiant further states that on or about February, 1883, at the request of General Meyers, he made a thorough examination of the books, papers, and vouchers which belong to the department of General Meyers, covering the latter part of 1864 and including the first half of January, 1865 with reference to the number of wagons delivered by Jacob Kern, claimant, to the quartermaster's department at Saint Louis, and the number of wagons so delivered, which, according to said books and vouchers, remained unpaid for, and that affiant found that ninety-two wagons received of Jacob Kern by said quartermaster had not been paid for, but the account for that number of wagons was still due and unpaid to Jacob Kern; that affiant obtained his information from original papers and original entries, and not from secondary entries. That the method of doing business consisted in this: Wagons being delivered at the corral at Saint Ange avenue and Hickory street, in said city, were received and inspected, and if passed receipts were given for same; and the inspector daily reported to General Myers's office the number of wagons received and accepted and from whom, and credits were given to the manufacturer from this report. These daily reports were simply rough memoranda which, on entries thereof being made in the books, were destroyed. Now, the book of such original entries showing the number of wagons so furnished by Jacob Kern to said department during the latter part of 1864 and the first half of January, 1865, is now in charge of the Third Auditor's office in Washington City, for I know this, as I sent it myself some time after investigating this claim of Mr. Kern. This affiant further states that said book, in charge of said Department at Washington, is an original book of entries of transactions in the quartermaster's department at Saint Louis, under General Meyers, during the latter part of 1864 and the first part of January, 1865, and the entries thereon touching the wagons received of Jacob Kern during said period and remaining unpaid for, as shown by said book, is correct.

Affiant further states that not only has he examined said book and knows that its contents are true, but further, he has examined the accounts of General Meyers, and knows from such examination that the ninety-two wagons aforesaid were never paid for by the department.

JAS. MCKENNA.

Subscribed and sworn to before me this 25th day of May, 1886. Witness my hand and notarial seal.

[SEAL.]

GEORGE M. BLOCK,
Notary Public.

51st Congress, 1st Session. | SENATE. | Report No. 1468.

IN THE SENATE OF THE UNITED STATES.

JULY 9, 1890.—Ordered to be printed.

Mr. HIGGINS, from the Committee on Claims, submitted the following

REPORT:

[To accompany substitute for bill S. 270.]

The Committee on Claims, to whom was referred the bill (S. 270) for the relief of the assignees of John Roach, deceased, by reason of his construction of the steam machinery for the wooden double-ender *Peoria*, have had the same under consideration, and recommend the adoption of the substitute for said bill, herewith submitted.

Your committee finds on the files of the Senate a sworn statement, submitted by John Roach, in response to a resolution adopted by the Senate December 13, 1866. This statement is corroborated, in many particulars, by the testimony of numerous witnesses, examined by a board of naval officers, composed of Commodore Thomas O. Selfridge, Chief Engineer Alexander Henderson (succeeded by Chief Engineer Montgomery Fletcher), and Paymaster C. H. Eldridge, which convened at the Brooklyn navy-yard, June 5, 1865, under the following resolution of the Senate (see Senate Ex. Doc. No. 18, Thirty-ninth Congress, first session):

IN THE SENATE OF THE UNITED STATES,
March 9, 1865.

Resolved, That the Secretary of the Navy be requested to organize a board of not less than three competent persons, whose duty it shall be to inquire into and determine how much the vessels of war and steam machinery contracted for by the Department in the years 1862 and 1863 cost the contractors over and above the contract price, and the allowance for extra work, and report the same to the Senate at its next session; none but those who have given satisfaction to the Department to be considered.

John Roach, deceased, coming under the terms of said resolution, presented his claim to said Board, with the vouchers and the evidence in support of it. See Senate Ex. Doc. No. 18, Thirty-ninth Congress, first session page 61, as follows:

The Board, after a critical examination of the bills of cost presented by the several contractors for vessels and steam machinery contracted for in the years 1862 and 1863, who have appeared and made sworn statements has determined the excess of cost in the several cases over and above the contract price and allowance for extra work to be as follows: Engine and boilers for the wooden double-ender *Peoria*, $61,172.51.

All of which is respectfully submitted.

THOMAS O. SELFRIDGE,
Commodore and President of Board.
MONTGOMERY FLETCHER,
Chief Engineer.
CHAS. H. ELDRIDGE,
Paymaster.

HON. GIDEON WELLES,
Secretary of the Navy, Washington, D. C.

On January 31, 1866, this report was referred to the Committee on Naval Affairs of the Senate, which committee, on March 22, 1866, made a report thereon (No. 45, first session Thirty-ninth Congress) accompanying a bill for the payment of the awards thus made. In said report the committee say:

From June till December last the Board organized by the Secretary of the Navy under the Senate resolution, composed of eminent officers of the Navy, was engaged in hearing evidence and investigating the claims of these parties. That investigation seems to have been fairly, carefully, and thoroughly made. It was by officers of the Department, and the award, which the committee believe to be substantially right, should be adopted as the basis of relief to the parties, and therefore your committee report the accompanying bill.

One of the awards has been paid by joint resolution of March 30, 1867 (15 Stats., 353), by which Donahue, Ryan, and Secor were paid $179,000 for losses sustained by them in constructing the *Comanche*. Amount allowed by the board, $179,993.80.

In addition, the following special acts have been passed to relieve contractors in similar cases, to wit:

Act of February 18, 1873, to relieve the heirs of George C. Bester, $125,000 (17 Stats., 733).

Act of June 1, 1872, to pay Charles W. Whitney, $50,000 (17 Stats., 671).

John Ericsson was allowed $1,070,438.93 for increased cost of the *Puritan*.

Act of June 10, 1872, to pay J. S. Underhill $23,310.75 (17 Stats., 691).

Miles Greenwood, of Cincinnati, Ohio, was allowed and paid for increase cost on the United States vessel *Tippecanoe*, $76,000.

Act of March 2, 1875, to pay Daniel S. Mershon, jr., $46,715.08 (18 Stats., 635).

The contractors for building the dome of the Capitol were awarded and paid $96,000 for increase in the price of labor and material during its construction. The Government prolonged the time of its completion. (See Senate Report No. 132, first session, Thirty-ninth Congress.)

The question of the duty of the Government to relieve the contractors for the building of these vessels has been repeatedly recognized by Congress. (Slone, Report No. 17, Thirty-ninth Congress, second session; Senator Nye, Report No. 45, Thirty-ninth Congress, first session; Senator Drake, Report No. 163, Forty-first Congress, second session; Senator Nye, Report No. 37, Forty-second Congress, second session.

That the contract for this machinery was fulfilled by John Roach is demonstrated by the fact that his claim was presented and considered by said Board. Your committee sees no reason to doubt the correctness of the statements made by Mr. Roach, and adopt his memorial as part of this report.

The bill referred to the committee provides for the payment of the sum found to be due by the Selfridge Board, but the substitute recommended provides for the reference of the claim to the Court of Claims, in order that the increased cost to which he was put in completion of the contract may be judicially ascertained, the judgment to be rendered by the court not to exceed the sum allowed by said Board.

For economic reasons, John Roach made an assignment to George W. Quintard and George E. Weed for the benefit of his creditors. His subsequent death has worked no change in the right or interest thus vested in the assignees.

The memorial of Mr. Roach is as follows:

To the Committee on Claims, House of Representatives, Washington, D. C.:

GENTLEMEN: In compliance with the terms of the resolution passed by your honorable body on the 13th ultimo, I beg to submit my claims for compensation and relief for losses sustained in the construction of the steam machinery for the wooden double-ender gun-boat, *Peoria*.

This machinery was contracted for on the 29th of October, 1862, with the Navy Department, by the subscriber, John Roach, of New York, for the sum of $82,000. The cost was $144,532.44, as shown by the accompanying statement made under oath before the Board of Naval Engineers appointed to investigate into the cost of the engines, who after a minute scrutiny of my books and papers fixed the amount of my losses at $61,752.51.

The circumstances which led to the cost of the machinery exceeding the contract price are as follows:

First. The engines proved to be much weightier than the contractors were led to believe, more costly in finish and required the expenditure of much more labor than was anticipated.

When the contract was taken the plans and specifications were incomplete; it was therefore impossible to make any reliable approximation to a detailed estimate as to the weight of the machinery. On representations which were made, no doubt, in perfect good faith, the contractors were led to believe it would not exceed that of the *Paul Jones* by more than 15 per cent. This supposition proved entirely erroneous, as the weight of the *Peoria's* engines reaches nearly 600,000 pounds, while that of the *Paul Jones* is only about 380,000 pounds.

Second. The great scarcity of skilled mechanics, the disorganization of labor during and in consequence of the war; the giving out of so many contracts at the same time for steam machinery by the Government, and the chartering of so many steam-vessels of all classes to be used in the Government service created a demand for skilled mechanics to meet which the ordinary supply was totally inadequate. Later this state of affairs was much aggravated by numbers of mechanics, induced by the heavy bounties, entering the volunteer service, others being conscripted or moving to distant localities to avoid conscription, many of the best workmen being absorbed by the Navy and navy-yards, others being attracted into avocations rendered by the war temporarily more lucrative then mechanical pursuits. Not only the cost of labor kept advancing through the whole time the work was in progress until it reached from 50 to 100 per cent. above the rates paid at the time the contract was made, but owing to the great infusion of inexperienced hands its efficiency kept as steadily falling to a lower standard, taking much longer to build a pair of engines at that period than it had previously done with the same number of workmen at lower prices. This disorganization in the labor market affected the cost of work indirectly as well as directly, subcontractors in most instances failing to finish the articles contracted for at the time specified, and in many instances furnishing materials which not coming up to the standard of quality had to be condemned and replaced, causing much delay, unnecessary labor, and increase in cost.

Third. The enormous advance in the cost of all materials, owing in a great measure to the depreciation in value of paper money caused by the extraordinary issue by the Government of an irredeemable currency. Pig-iron rose while the work was in progress from $27 per ton in October, 1862, when the contract was made, to $80; boiler-plate from 6¼ cents per pound to 10¼ cents; bar-iron from $72.50 to $220 per ton; ingot copper from 25¼ cents to 51¼ cents per pound; sheet copper from 30¼ cents to 70 cents per pound.

In determining the propriety of allowing any re-imbursement to the contractors for the engines of the *Peoria* class and the amount of said allowance, if made, I would respectfully urge the special attention of your honorable body to the following facts, and on these facts alone, I for one, am willing to rest my claims before any impartial tribunal. By referring to the accompanying statement it will be perceived that the cost of the material and sundries alone, the greater portion of which was contracted for before any great advance in prices took place, amounts without any expenditure at all for labor, to the face of the contract, and I believe on this point you will find but little disparity in the statements of the majority of the contractors.

This, I think, ought to be sufficient to convince you that there must have been in the minds of those gentlemen at the time of taking these contracts a very grave misapprehension as to the nature of the work they were contracting for and that the engines could not have been finished except at a very great pecuniary loss. These engines weigh nearly 600,000 pounds, which, at the contract price of $82,000, is only about 14 cents per pound. At 25 cents per pound, a low figure during the last four years for that class of work, they will amount to $150,000.

Through an unfortunate misapprehension on the part of the contractors the Gov-

ernment has obtained possession of this $150,000 worth of property while it has only been legally bound to pay $82,000 for it.

Viewing the matter in this light, I think to an unprejudiced mind it will appear clear that the United States Government, having indisputably received the full value claimed by the contractors, in equity ought not to shield itself behind a contract based upon a misunderstanding, but relieve the contractors to the full extent of their losses.

Regarding the discrepancy in cost between the engines of the *Peoria* and some others of her class it must be evident that as the engines progressed, and the contractors discovered that they must incur in finishing them up an enormous pecuniary loss, a wide margin for disparity arose, as under the circumstances different contractors would doubtlessly pursue widely different courses.

The subscriber, relying on the Government's fairness and believing it would be inclined to give any claim he might have for re-imbursement a more favorable consideration if he succeeded in building a pair of engines which would be satisfactory to the Navy Department and creditable to the builders and designers than if he attempted to curtail his losses by acting otherwise, spared no labor or expense to make the *Peoria's* engines first class throughout, and has no hesitation in referring this subject to the Navy Department, which by this time has had an opportunity of judging which ships are the most profitable according to their relative cost.

JOHN ROACH.

Witness:
EDWARD F. BROWN.

Cost of engines, boilers, etc., for the U. S. gun-boat "Peoria," constructed at the Ætna Iron Works, New York, by John Roach & Son.

Forger and helpers, 717 5½–10	$5,470.40
Flange, fires, and helpers, 7¼	114.58
Lathes, 1032 7/10	5,288.23
Planing-machines, 342 7/10	1,937.88
Drilling-machines, 123 8/10	524.18
Bolt-cutters, 151 4½–10	495.97
Punching and shearing machines and helpers, 5 1½–10	38.44
Sundry tools, sldtz machines &c, 107 3/10	542.03
Machinists, adding 10 per cent. for shop rent, use of tools, &c., 4873 3/10	11,086.97
Boiler-makers, adding 10 per cent. for shop rent, use of tools, &c., 3713 3½–10	8,409.27
Laborers, adding 10 per cent. for shop rent, use of tools, &c., 2007 8½–10	3,486.86
Coppersmiths and w. felters, adding 10 per cent. for shop rent, use of tools &c., 964 6/10	2,151.23
Pattern-makers, adding 10 per cent for shop rent, use of tools, &c., 600 8½–10	1,404.93
Mill-wrights, &c., adding 10 per cent. for shop rent, use of tools, &c., 564 6/10	1,528.84
Sundries, draughtsmen, &c	1,692.90
Boiler-work per contract	15,681.14
	59,853.85

Iron castings:	Pounds.
4 bed plates	32,212
1 condenser	13,860
2 bonnets	1,663
1 cylinder	16,809
1 do. head	3,951
1 manhole plate for do	400
1 piston	3,447
2 rocking rings	1,842
1 channel plate	16,689
4 bonnets	2,059
1 steam chest	5,339
1 do.	4,811
Bonnets for do	1,360
2 O. B. bearings	11,367
2 do. pillow blocks and copes	12,402
1 exhaust eccentric	1,063
1 steam do.	1,308
2 steam stop-valve chambers	1,900
2 bonnets for do	247
2 side pipes	2,361

Iron castings—Continued.	Pounds.	
1 O. B. delivery valve	1,518	
1 bonnet	240	
Feed pipes	8,520	
2 Kingston valve chambers	1,312	
2 bonnets for do.	410	
1 fresh-water condenser cast'g	762	
1 fresh-water safety-valve	1,100	
1 bonnet for do	92	
2 rock shafts	722	
2 do. arms	216	
1 do. bearing	750	
4 brackets for A. P. lever-shaft	7,500	
1 throttle-valve elbow-pipe	1,382	
1 air-pump slide	1,640	
4 toes	461	
4 lifters	364	
2 carrying arms	312	
4 columns	214	
2 brackets for lifting rods	460	
2 trip shaft bearings and caps	277	
2 weights for relieving valves	105	
1 stuffing-box gland for cyl. head	102	
Caps for lifting rod guides	90	
2 clutches	686	
4 steam-chest spools	236	
2 tightening pallies	130	
Miscellaneous	6,113	
		$9 047 12
	164,493. 5 5¼c.	
		68,900.97

Forgings:		
2 crank shafts	30,754 8¼ & ¼	2,692.51
Turning and key seating		200.00
2 cranks	9,366 17 & "	1,639.98
1 crank-pin	1,198 10 & "	123.38
1 connecting rod	5,708 16 & "	940.67
1 piston rod	1,732 9 & "	160.55
1 A. P. rock shaft	2,303 22 & "	531.86
2 follower rings	748 30 & "	231.12
1 binder for covering rod	252 10 & "	25.95
4 bolts	523 10 & "	53.87
5 pins	247 12 & "	30.53
4 mits	207 16 & "	34.11
1 cross-head	856 10 & "	77.70
4 cross-head jaws	650 12 & "	80.28
1 cross socket jaws	1,573 30 & "	486.06
1 A. P. lever shaft	2,467 9 & "	278.69
1 crank-pin	1,189 9 & "	110.22
1 A. P. crank arm	1,032 22 & "	233.85
1 socket jaw	245 30 & "	75.71
1 pin for cross-head	114 12 & "	14.02
1 A. P. piston rod	563 7	25.41
Miscellaneous	19,868 7	1,390.76
Steel forgings for engine	338	117.05
Boiler plate for engine	499	47.70
Brass castings for engine, 34,999		19,017.48
Condenser tubes, 6,478		3,016.66
Sundries for engine		3,115 46
Rubber packing-valves, etc		1,189.27
Lumber		268.32
Breakers and bulkhead lining:		
Angle and T-iron, 7,484		823.24
Boiler plate, 35,495		1,127.27
Bar iron and forgings, 1,949		152.84
Bolts and sundries		691.57
Water-wheels:		
2 centres, 13,753 5		687.65
C. I. Buckets, 2,330 6		139.80
Rims, arms, braces, bands, keys, hoop, bolts, etc., 32,327		2,010.03
Sundries		292.45

Smoke-stack jackets and aprons:	
Chains, 2,024	$160.47
Plate iron, 17,472	630.12
Bar-iron, forgings, etc., 2,098	175.80
Rivets, bolts, etc	172.6[illegible]
Copper and brass work	5,635.8[illegible]
Steam fittings	257.4[illegible]
Fire and engine room:	
Forgings, 1,692	138.7[illegible]
Sheet-iron, 209	17.7[illegible]
Sundries, 310	26.3[illegible]
Brass tubes and castings for railing	198.5[illegible]
Castings, 17,968	1,093.7[illegible]
Ventilators, etc.:	
Forgings, 623	42.2[illegible]
Castings, 580	34.8[illegible]
Boiler plate, 1,102	102.3[illegible]
Sundries	25.8[illegible]
Brass castings for tools, etc, 129	77.8[illegible]
Iron do do 337	19.7[illegible]
Steel forgings do 72	23.6[illegible]
Iron do do 2,052	171.5[illegible]
Sundries	8.2[illegible]
One Amroid barometer	14.0[illegible]
Patent-fees on boilers	600.0[illegible]
Copper coating, 60, bill	61.0[illegible]
Boring cylinder	132.0[illegible]
Coppersmith bill	54.03
Two Dumpfel blowers	751.90
2 pumping engines	1,253.00
Fitting boilers	1,248.72
Swivel for valves	150.00
Wharfage	1,459.88
Hoisting boilers and machiney	734.53
Gong and bell work	102.80
Ventilator hoods	179.50
1 hydraulic jack	80.00
Flue brushes	12.00
Extra flues	177.09
1 pr. bellows	16.00
Tube expanders	50.00
Blocks	55.00
1 anvil	17.70
1 vise	431.75
Rubber hose	25.62
Shovels	16.25
Belting	6.67
Sundry tools	56.75
Gauges, thermometers, salometers	583.27
Lamps, oil, cans, etc	253.06
1 whistle	60.00
Boiler tubes	2,540.78
Boiler-plate rivets, braces, etc., 12,862	9,002.14
10 furnace-door frames, 2,050, 5 cents	102.50
10 ash-pit doors, 1,600, 4½	72.00
10 furnace doors, 1,100, 4½	49.50
10 smoke-box door frames, 2,700, 5	135.00
10 smoke-box doors, 1,200, 4½	54.00
Grate bars, 14,203, 4	568.12
Grate-bar bearers, 1,879	75.16
Plate iron, 4,514	410.45
Angle and bar iron, 526	51.48
Bar-iron and forgings, 990	79.24
Sundries, valves, cocks, etc., furnished	129.08
Boiler putty	128.62
Superintendence, cartage, etc	2,500.00
	$144,532.44

JOHN ROACH.

STATE OF NEW YORK, *City and County of N. York, ss :*

Be it known that in the city and county of New York and State of New York aforesaid on the 13th day of January, 1867, before me, Edward F. Brown, a notary public in and for the city and county of New York personally appeared John Roach to me personally known and made oath that the foregoing statement by him signed is true according to the best of his knowledge and belief.

In testimony whereof I have hereunto set my hand and notarial seal of said city of New York the day and year first above written.

[SEAL.] EDWARD F. BROWN.

Notary public in and for the City and County of New York.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1469.

IN THE SENATE OF THE UNITED STATES.

JULY 10, 1890.—Ordered to be printed

Mr. FAULKNER, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 3461.]

The Committee on Claims, to whom was referred the bill (S. 3461) for the relief of the trustees of the Methodist Episcopal Church of Martinsburgh, W. Va., have had the same under consideration, and would respectfully report:

It appears from the evidence in the case that the Methodist Episcopal Church, located on the public square in the town of Martinsburgh, was taken possession of on January 1, 1863, and occupied and used for the purposes of a hospital by the Union Army during the months of January, February, March, April, May, and June of that year, and during the month of May, 1864.

This was one of the last churches in that town to be seized by the military authorities for hospital purposes.

The continual movement of the armies up and down the valley of Virginia, the numerous battles in which the contending forces were engaged, and the constant occupation by the Union Army of Martinsburgh, caused the military authorities to select it as a point at which to establish hospitals for the Army, and as it was then a town of but 2,500 inhabitants, with but few large buildings in it, they were compelled to occupy the court-house and all the churches of the town for the purpose of hospitals.

In the case of the Methodist Episcopal Church the members of the congregation, by reason of their loyalty to the Union, succeeded in preventing the occupation of their church until some time after all the others had been occupied, but the necessities of the military service compelled the use and occupation of this church for the purposes hereinbefore mentioned.

The claim of the church was filed for the destruction of thirty-two pews, two stoves, eight window blinds, and damages to windows, amounting in all to $466, and for rent of building to the amount of $1,400, in the Quartermaster's Department in March, 1867, and on August 9, 1867, it was referred by the Assistant Quartermaster-General to General S. Vanvliet for investigation and report.

This was submitted by General Vanvleit to a special agent of the Department, Mr. Thomas P. Schiffle, who reported that "the loyalty of the members of the above church, who instituted this claim, is beyond question," and then proceeds to analyze the items and to apply the evidence to it, and reduces the claim as to the pews, stoves, blinds, and damages to windows from $466 to $318.

On February 25, 1868, General Vanvleit indorsed the report, with

the recommendation that it be reduced to the damages reported upon, from $466 to $318.

On June 6, 1868, the Quartermaster-General, in a communication to the Secretary of War, in forwarding the report upon said claim, recommends the payment of $318, but suggests that under existing orders of the War Department "no rent can be paid for the use of churches or other public buildings." This was indorsed by General Scofield, Secretary of War, on June 24, 1868.

The claim was then forwarded to the Third Auditor for allowance, who, on January 18, 1870, rejected the same upon the following grounds: He quotes a previous opinion rendered by the Department as covering this case, and excluding it from consideration. He says:

In the matter of the Elk Branch Presbyterian Church, claim No. 18,247, it was held by you (referring to the Second Comptroller), concurring in the opinion of the Third Auditor, that the act of February 19, 1867, extended to the counties of Jefferson and Berkeley, West Virginia, and that claims on account of the occupation of and injury to real estate should not be entertained by the accounting officers of the Treasury where such claims originated in either of said counties, and during the war of the rebellion.

It has been by reason of said statute that churches that were occupied for hospital purposes in the counties of Jefferson and Berkeley during the war have been compelled to apply to Congress for relief, as those counties were regarded as within the territory in insurrection against the Government of the United States, although in fact they were in the occupation and possession of the Union armies throughout the whole war, with the exception of the movements of the Army of Northern Virginia, and the Army of the Valley during the summer months.

In every instance where these churches have been used for such purposes Congress has paid a reasonable rent and compensation for the same.

This case has been before Congress since 1872, but like many other claims has not been favorably acted upon by both Houses and become a law.

The proof would fully sustain the claim of $1,886 made by the trustees of said church, but as the rent is fixed higher than the committee has been allowing for the use and occupation of similar buildings, after careful consideration, your committee is of the opinion that the bill should be amended in line 7, by striking out "eight hundred and fifty," so that the amount allowed said church would be $1,000, and as so amended, would report the bill favorably, and recommend that it do pass.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1470.

IN THE SENATE OF THE UNITED STATES.

JULY 10, 1890.—Ordered to be printed.

Mr. WALTHALL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 7666.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 7666) making an appropriation to construct a road and approaches from the city of Alexandria, Va., to the national military cemetery, near that city, having considered the same, report as follows:

From the communication from the Quartermaster-General, dated March 27, 1890, which is set out in the report of the Committee on Military Affairs of the House, printed below, it appears that "this road is much needed, as the present means of approach is always in bad condition, and some seasons almost impassable." But as the communication shows that the cemetery "is situated within the corporate limits of the city of Alexandria," and the bill describes the cemetery as "near that city," a note was sent to the Quartermaster-General from this committee calling attention to this fact, and submitting for his consideration a draft of a bill referring to this cemetery as within the city limits and describing the route for the proposed road.

The correspondence is set out below, and the House bill will conform precisely to the recommendation of the Quartermaster-General, if amended, as follows:

Strike out all after the word "gravel," in line 6, and insert "or macadam road and approaches from the national military cemetery, near the city of Alexandria, Virginia, via Wilkes street, to the intersection of said street with Alfred street in said city: *Provided*, That a right of way be granted to the United States by the city of Alexandria of at least fifty feet in width, or the full legal width of Wilkes street, to Payne street, and thence thirty feet in width from that point to the national cemetery, passing between the two private cemeteries."

Your committee recommend that this amendment be made, and that the bill pass when so amended.

HOUSE REPORT.

Your committee, having under consideration House bill 7666, "making an appropriation to construct a road and approaches from the city of Alexandria, Va., to the national military cemetery near that city," beg leave to recommend the passage of said bill, for the reasons assigned in the letter from the Secretary of War, hereto attached and made a part of this report; also the letter of the Quartermaster-General, hereto attached and made a part of this report.

WAR DEPARTMENT,
Washington, April 2, 1890.

SIR: I return herewith H. R. 7666, "making an appropriation to construct a road and approaches from the city of Alexandria, Va., to the national military cemetery near that city," referred to this Department on the 22d ultimo, and invite your attention to the inclosed report of the Quartermaster-General, dated the 27th ultimo, and his recommendation as to the amendment of the bill.

The construction of the road is reported by General Holabird as not only desirable, but a necessity. The work should be, and doubtless will be, done by the Quartermaster's department, if a general appropriation is made for the construction of roadways to national cemeteries, as suggested in my letter to you of March 17 last.

If, however, the policy is continued of making separate appropriations for roadways to cemeteries, then this bill is deserving of favorable consideration.

Very respectfully,

REDFIELD PROCTOR.
Secretary of War.

Hon. B. M. CUTCHEON,
Chairman Committee on Military Affairs, House of Representatives.

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., March 27, 1890.

SIR: I have the honor to return herewith bill H. R. No. 7666, Fifty-first Congress, first session, "Making an appropriation to construct a road and approaches from the city of Alexandria, Va., to the national military cemetery near that city," referred by the Committee on Military Affairs, House of Representatives, with request for the views and recommendations of the War Department.

The Alexandria, Va., national cemetery (second class) is situated within the corporate limits of the city of Alexandria, immediately west of and adjoining the city cemeteries, and contains about six acres of land. Number of interments, 3,524.

March 3, 1888, the Quartermaster-General returned to the honorable Secretary of War bill H. R. 5691, Fiftieth Congress, first session, "Making an appropriation to construct a road and approaches from the city of Alexandria, Va., to the national cemetery near that city," with a report, a copy of which is inclosed herewith.

The construction of this road is desirable and necessary, and is a part of the unfinished business of the last fiscal year, to which attention was invited in the annual report of the Quartermaster-General for the fiscal year ending June 30, 1889, page 388, as follows: "Alexandria, Va., route from the national cemetery via Wilkes and Alfred streets to Duke street, in Alexandria, distance 2,100 feet; style of road, macadam or graval, 30 feet wide with stone curbing and brick sidewalk; estimated cost, for macadam, $10,000; estimated cost for gravel, $7,000. This road is much needed, as the present means of approach is always in bad condition and some seasons almost impassable."

I recommend that the bill (H. R. 7666) be so amended as to provide for a gravel or macadam road, to be constructed without curbing, and that the necessary appropriation therefor be requested ($7,000).

Very respectfully,

S. B. HOLABIRD,
Quartermaster-General, U. S. Army.

The SECRETARY OF WAR.

UNITED STATES SENATE,
Washington, July 3, 1890.

DEAR SIR: I invite your attention to H. R. 7666, making an appropriation to construct a road and approaches from the city of Alexandria, Va., to the national military cemetery near that city. As the cemetery is situated within the corporate limits of Alexandria it seems necessary to amend the bill in order to make it serve the purpose intended. Will you please examine the inclosed and write me whether a bill in that form meets your view.

Your obedient servant,

E. C. WALTHALL,
Member Committee on Military Affairs.

The QUARTERMASTER-GENERAL.

[First indorsement.]

WAR DEPARTMENT, QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., July 8, 1890.

Respectfully referred by direction of the Quartermaster-General to Lieut. Col. G. B. Dandy, deputy quartermaster-general U. S. Army, depot quartermaster, Washington, D. C., for early report.

WM. S. PATTEN,
Captain and Assistant Quartermaster U. S. Army.

[Second indorsement.]

Respectfully returned to the Quartermaster-General of the Army, with the recommendation that the accompanying draft of an act, which appears to be intended as a substitute for the bill H R. 7666, Fifty-first Congress, first session, be amended as follows:

After the word "gravel," in line 7, insert the words "or macadam," and strike out all after line 8 and substitute the following: "Near the city of Alexandria, Virginia, via Wilkes street, to the intersection of said street with Alfred street, in said city: *Provided*, That a right of way be granted to the United States by the city of Alexandria of at least fifty feet in width, or the full legal width of Wilkes street, to Payne street, and thence thirty feet in width from that point to the national cemetery, passing between the two private cemeteries."

G. B. DANDY,
Deputy Quartermaster-General, U. S. A., Depot Quartermaster.

DEPUTY QUARTERMASTER'S OFFICE,
Washington, D. C., July 9, 1890.

[Third indorsement.]

WAR DEPARTMENT, QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., July 9, 1890.

Respectfully returned to the Hon. E. C. Walthall, inviting attention to the second indorsement, in which I concur.

JAMES GILLISS,
Major and Quartermaster, U. S. A., in charge of office.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1471.

IN THE SENATE OF THE UNITED STATES.

JULY 10, 1890.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 3966.]

The Committee on Military Affairs, to whom was referred S. 3966, to remove the charge of desertion against George A. Jeffords, have duly considered the same and submit the following report:

This bill directs the Adjutant-General to place upon the muster-roll of the United States the name of George A. Jeffords, to show him a member of Company D, Ninth Michigan Infantry Volunteers, and that all charges of desertion be removed. In connection with this bill, there was presented to your committee a certificate of discharge showing that George A. Jeffords, private of Capt. Charles D. Coleman's Company D, Ninth Michigan Veteran Infantry Volunteers, who was enrolled on the 26th day of August, 1864, to serve one year or during the war, was discharged from the service of the United States on September 3, 1865, at Nashville, Tenn., by reason of expiration of term of service, and dated at Nashville, Tenn., September 4, 1865, signed Cyrus N. Gray, captain Fifteenth United States Colored Infantry, and William Wilkinson, lieutenant-colonel, commanding regiment.

Your committee referred the bill to the Secretary of War for report and information, and received in reply the following communications:

WAR DEPARTMENT,
Washington City, June 13, 1890.

SIR: In reply to your request of the 11th instant for information upon Senate bill 3966, Fifty-first Congress, first session, to provide for the placing of the name of George A. Jeffords on the rolls of Company D, Ninth Michigan Infantry Volunteers, I have the honor to inclose a report from the officer in charge of the record and pension division of this Department.

It is suggested that the words "War Department" be substituted for the words "Adjutant-General of the United States" in the bill, the records being under the immediate charge of the Secretary of War, and not of the Adjutant-General.

Very respectfully,

REDFIELD PROCTOR,
Secretary of War.

Hon. JOSEPH R. HAWLEY,
Chairman Committee on Military Affairs.

CASE OF GEORGE A. JEFFORDS, LATE PRIVATE COMPANY D, NINTH MICHIGAN VOLUNTEERS.

RECORD AND PENSION DIVISION, *June* 13, 1890.

George A. Jeffords, private Company D, Ninth Michigan Volunteers, was enrolled on September 3, 1864, to serve one year.

The company muster-rolls of October 31 and December 31, 1864, and February 28, 1865, report him: "Recruit assigned to company, not yet joined." The roll of April

30, 1865, shows him: "Deserter; assigned to company September 26, 1864, * * * and never joined, dropped as a deserter March 12, 1865." The roll of June 30, 1865, reports him: "Present; returned from desertion; taken up May 5, 1865; has been tried by general court-martial, and awaiting sentence; on duty in camp." He is reported present on August 31, 1865. He was discharged on September 4, 1865, at Nashville, Tenn., on individual muster-out roll, with following remarks:

"Mustered out by reason of expiration of term of service, to date September 3, 1865. Entitled to transportation to place of original enrollment. Recruit assigned to company by battalion order No. 74, September 22, 1864; dropped as a deserter on March 12, 1865. Taken up from desertion May 6, 1865. Tried by general court-martial and sentenced to loss of all pay due or that may become due for the period of two months, and to be confined to military prison at hard labor for the period of two months. That portion of the sentence stopping his pay is remitted by Special Orders, No. 60, Headquarters Military Division of Tennessee, dated August 23, 1865."

He was arraigned before a general court-martial convened at Nashville, Tenn., June 14, 1865, on the charge of desertion, specifying that after his assignment to his company on September 22, 1864, he never joined it or reported for duty, and was dropped as a deserter on March 12, 1865; that he remained so absent until about May 2, 1865, when he reported to his company. He was found guilty (confirming his plea) and was sentenced "to forfeit all pay and bounty now due, or that may become due, for the period of two months, and to be confined at hard labor in such military prison as the general commanding District of Middle Tennessee may direct for the same period, viz, two months." The proceedings, findings, and sentence in this case were duly approved and confirmed by Maj. Gen. Lovell H. Rousseau, commanding, and promulgated in General Orders, No. 45, District of Middle Tennessee, June 20, 1865.

The stoppage of pay, imposed by the court-martial, was remitted by Special Orders, No. 60, Headquarters Military Division of Tennessee, dated August 23, 1865.

No testimony in the case is on file in the War Department, nor is any application for removal of charge of desertion pending.

It is held that the War Department is legally barred from taking any further action in the case of a soldier who has been convicted and sentenced by a general court-martial, and the sentence in whose case (so far as not waived by the Government) has been duly confirmed and executed.

The authorized attorney in the case was so informed on April 9, 1886, and since that date the status of the case has not been changed by subsequent legislation.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

The SECRETARY OF WAR.

From this official report it is manifest that no relief can be granted by Congress in this case. He was charged with desertion, charges were duly preferred against him, a duly constituted court-martial was assembled, he was duly arraigned before the same, was tried without objection, was found guilty, sentenced, and the sentence executed; and it is beyond the power of Congress to efface or destroy that sentence.

That portion of the sentence forfeiting pay has already been remitted, and all the balance of the sentence has been fully executed.

Your committee therefore report the bill back to the Senate adversely, and recommend that it be indefinitely postponed and the relief prayed for be not granted.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1472.

IN THE SENATE OF THE UNITED STATES.

JULY 10, 1890.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 3099.]

The Committee on Military Affairs, to which was referred S. 3099, to remove the charge of desertion from Thomas Morrison, have duly considered the same, and submit the following report:

Accompanying this bill was one of the stereotyped petitions with a printed heading and signed by the claimant by his attorney, without any verification.

In this petition the claimant states that he enlisted in Company C, Twentieth Connecticut Volunteers, about August 20, 1862, and while on the march from Pleasant Valley to Stafford Court-House, Va., he incurred a breach or rupture and varicose veins of legs, and was not able to keep up with his regiment. In a few days afterwards, in February, 1863, he received a furlough to go home on account of the aforesaid disabilities. He tried his best to return to his regiment, but his legs pained him so that he was unable to walk, and his rupture continued to grow worse, and he never recovered from his disabilities. He at one time tried to return to his regiment, and while at New York City completely broke down and had to abandon his object. "He thinks he should not be punished for being disabled while in the service and in line of duty, and prays for the removal of the charge of desertion."

Your committee referred the bill to the Secretary of War for information and report, and received the following letter and accompanying report:

WAR DEPARTMENT,
Washington City, April 2, 1890.

SIR: In reply to your request of the 31st ultimo, for information upon Senate bill 3099, Fifty-first Congress, first session, to provide for the relief of Thomas Morrison, Company C, Twentieth Connecticut Volunteers, I have the honor to inclose a report from the officer in charge of the Record and Pension Division of this Department.

Very respectfully,

REDFIELD PROCTOR,
Secretary of War.

Hon. JOSEPH R. HAWLEY,
Chairman Committee on Military Affairs.

CASE OF THOMAS MORRISON, COMPANY C, TWENTIETH CONNECTICUT VOLUNTEERS.

RECORD AND PENSION DIVISION, *April 2, 1890.*

A report in this case was furnished the House Committee on Military Affairs on House bill 3450, Fiftieth Congress, first session, on March 16, 1888; and on April 5, following, another and similar report was furnished the Senate Committee on Military Affairs on Senate bill 507, since which dates the status of the soldier has not been changed either by the introduction of new testimony or by subsequent legislation.

The following is a copy of the report referred to, to wit:

"The official record shows that Thomas Morrison, who was enrolled at Hartford, Conn., on August 20, 1862, for three years as a corporal of Company C, Twentieth Connecticut Volunteers, received a furlough at Stafford Court-House, Va., on February 19, 1863, for ten days, and that failing to return to his command he was reported a deserter on February 28, 1863. His company was mustered out on June 13, 1865.

"In his application of June 30, 1886, Morrison states under oath that he was ruptured on the march from Point Pleasant to Stafford Court-House, and that he obtained a furlough to go home; that he continued to grow worse, and was never able to go back to the regiment. He also states that he started once to rejoin his command and got as far as New York, where he broke down completely; that he was there examined by a doctor, whose name he does not now know. He protests that he would have returned had he been able to do so at any time during the war.

"In support of his statement he filed the testimony of Henry Putnam, Charles F. Morrison, and James Morrison, who swear that the applicant came home on furlough with a bad rupture, which prevented his return to the regiment, and the certificate of a Dr. J. H. Denling, who, upon an examination made on July 24, 1886, found that Morrison was then suffering from an inguinal hernia and varicocele.

"J. W. Terry, late surgeon of the Twentieth Connecticut Volunteers states that he has no recollection of the allegations made by the applicant.

"In the absence of any record evidence of the alleged rupture and in view of the fact that the short period for which a furlough was granted indicates that it was not based upon physical disability such as is claimed in this case, the evidence was deemed insufficient to establish that the claimant was prevented from completing his term of service by reason of wounds or disease contracted in the line of duty, and the application was denied under date of February 9, 1887."

Respectfully submitted,

F. C. AINSWORTH,

The SECRETARY OF WAR. *Captain and Assistant Surgeon, U. S. Army.*

This official record shows his enrollment August 20, 1862, and February 19, 1863, six months after enlistment, he received a furlough for ten days, and that, failing to return to his command at the expiration of his furlough, he was reported a deserter on February 28, 1863, and his company was not mustered out until June 13, 1865. He never rejoined his command from the expiration of his furlough in February, 1863, up to the muster out of his company on June 13, 1865. He seems to have been satisfied with his military record from 1863 up to June, 1886, a period of twenty-three years, and then on the 30th of June, 1886, he applied to have the charge of desertion removed. He made substantially the same statements in his application as made in his petition, and filed in support of his application to the War Department the testimony of Henry Putnam, Charles F. Morrison, and James Morrison.

If the applicant received a furlough on account of his rupture and disability, it is remarkably strange that the official record fails to show it, and certainly he could not have expected to leave his command in Virginia and return to his home in Connecticut and then rejoin his command within the period of a ten day furlough and at the same time receive any medical treatment or rest at his home. The surgeon of the regiment has no recollection of the matter.

Under the general law, if this applicant was so disabled during the existence of his furlough and thereafter until the muster out of his company as to be unable to rejoin his company, then upon proper proof of such facts the War Department has authority to remove the charge of desertion. The War Department has refused to remove it because the evidence was deemed insufficient to establish claimant's right to have the charge removed. In these cases your committee fully concur. The claimant has not produced the necessary and proper evidence to entitle him to the relief he claims.

There is no ground upon which your committee can recommend the relief prayed for, and they therefore recommend that the bill be indefinitely postponed, and the relief prayed for be not granted.

51st Congress, 1st Session. | SENATE. | Report No. 1473.

IN THE SENATE OF THE UNITED STATES.

July 10, 1890.—Ordered to be printed.

Mr. Cockrell, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 2187.]

The Committee on Military Affairs, to whom was referred the bill (S. 2187) to remove the charge of desertion from the military record of John Lewis, alias Morris L. Davis, have duly considered the same and submit the following report:

This bill directs the Secretary of War to remove the charge of desertion against John Lewis, alias Morris L. Davis, late a member of Company E, First Regiment Delaware Infantry Volunteers, and to issue him an honorable discharge.

In connection with the bill there was referred to your committee a petition addressed to Congress, and signed John Lewis, now Morris L. Davis, prepared by an attorney and not verified by the claimant, in which he states that he was enlisted under the name of John Lewis on December 9, 1864, and served faithfully until June 11, 1865, when, at Arlington Heights, he was taken sick with the fever and rheumatism, and left, going to Columbus, Ohio, for treatment, where he was confined to his room over two months, unable to return to his company, and when he recovered he found that his company had been discharged.

Your committee applied to the Secretary of War for information and report, and received in reply the following communications:

War Department,
Washington City, March 28, 1890.

Sir: In reply to your request of the 26th instant for information upon Senate bill 2187, Fifty-first Congress, first session, to provide for the removal of charge of desertion from the record of John Lewis, alias Morris L. Davis, I have the honor to inclose a report from the officer in charge of the record and pension division of this Department, and to suggest that on line 5 of said bill the words "War Department" be substituted for the words "Adjutant-General's Office."

Very respectfully,

Redfield Proctor,
Secretary of War.

Hon. Joseph R. Hawley,
Chairman Committee on Military Affairs, United States Senate.

Case of John Lewis, late private (substitute) Company E, First Delaware Volunteers.

John Lewis, private, Company E, First Delaware Volunteers, was enrolled as a substitute on December 9, 1864, to serve three years. He was present with his company on April 30, 1865, and deserted on June 11, 1865, from near Munson's Hill, Va. No record has been found that he was under medical treatment during his service.

Morris L. Davis, of Ottumwa, Iowa, in affidavit of February 24, 1888, testified that he enlisted in Company E, First Delaware Volunteers, under the name of John Lewis; that in July, 1865, he became sick and left his command without permission, and was unable to return in time to be mustered out with his company (which was mustered out on July 12, 1865, near Munson's Hill, Va.); that he enlisted under the name of John Lewis—Lewis being his mother's maiden name—for the reason that his parents would not give him permission to enlist, he being but sixteen years of age.

Peter Ream, of Agency, Iowa, in affidavit of November 13, 1888, testifies that this applicant came to Columbus, Ohio, in June, 1865, sick with rheumatism and typhoid fever, and was confined to his bed and house for over two months, during which time affiant visited him frequently.

William McKnight, of Orangeville, Ohio, in affidavit of November 6, 1888, testifies to the same effect as Peter Ream.

On November 27, 1888, the War Department determined that, as the service of this soldier prior to May 1, 1865, amounted to a period less than six months, and as there is no record of his having been sick while in the service, relief from the charge of desertion can not be granted under the law applicable to the subject (act of July 5, 1884).

Subsequent legislation (act of March 2, 1889) has not changed the status of the case.

Respectfully submitted,

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *March* 28, 1890.

The SECRETARY OF WAR.

Desiring additional information, your committee again applied to the record and pension division of the War Department, and received in reply the following communications:

WAR DEPARTMENT,
Washington City, June 24, 1890.

SIR: Referring to your request of the 21st instant (received in this Department on the 23d instant) for certain information additional to that contained in report from this Department of March 28, 1890, on Senate bill, 2187, Fifty-first Congress, first session, in case of John Lewis, alias Morris L. Davis, a former member of Company E, First Delaware Volunteers, I am directed by the Secretary of War to inform you that the official records show that John Lewis, born in London, aged twenty-one years, a laborer, gray eyes, black hair, light complexion, 5 feet 7 inches high, enlisted December 9, 1864, at Wilmington, Del., for one year as a substitute for William W. Graham, who was drafted in Sussex County, Del.

There is no record evidence on file in this Department that said John Lewis is identical with Morris L, Davis, the party now claiming relief.

A copy of the affidavit of Morris L. Davis, dated February 24, 1888, is herewith inclosed.

Very respectfully,

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

Hon. F. M. COCKRELL,
United States Senate.

Application for removal of charge of desertion.

STATE OF IOWA, *County of Wapello, ss:*

On this 24th day of February, A. D. 1888, personally appeared before me, a clerk district court in and for the county of Wapello, in the State of Iowa, now a resident of Ottumwa, county of Wapello, State of Iowa, who, being duly sworn, declares that he is the identical Morris L. Davis who enlisted under the name of John Lewis in Company E, in the First Regiment of Delaware Infantry Volunteers; that he was enlisted in said company and regiment on or about the——day of October, 1863, at Wilmington, in the county of New Castle, and State of Delaware, by ; mustered into service on or about the day of October, 1863, at Wilmington, in the county of New Castle, and State of Delaware; that he served faithfully until on or about the day of July, 1865, when, without any intention of deserting, he left the regiment under the following circumstances: He became sick and left his company and regiment without permission, and was unable to return in time to be mustered out with the company. "I enlisted under the name of John Lewis, Lewis being my

mother's maiden name, for the reason that my parents would not give me permission to enlist, and being only about sixteen years of age, I ran away from college in New York, with several other students, and enlisted. I also ask for an honorable discharge."

This declaration is made for the purpose of securing a removal of the charge of desertion, and he hereby appoints, with full power of substitution and revocation, S. E. Adler, of Ottumwa, Wapello County, Iowa, his attorney, to present this application, and to receive and receipt for the discharge that may be issued thereon, and to do any and all acts necessary to effect the purpose of his said appointment. His post-office address is P. O. drawer A M, Ottumwa, Wapello County, Iowa.

M. L. DAVIS,

H. B. WAGERS.
DANIEL RAPP.

Also personally appeared before me H. B. Wagers, now a resident of the town of Ottumwa, in the county of Wapello and State of Iowa, and Daniel Rapp, now a resident of the town of Agency Township, in the county of Wapello and State of Iowa, to me well known as credible persons, who, being duly sworn, declare that they have been for three years acquainted with the above-named applicant; that they know him to be the person he represents himself to be; that they have every reason to believe that the foregoing affidavit by him subscribed is correct and true, and they have no interest in this claim.

H. B. WAGERS.
DANIEL RAPP.

STATE OF IOWA, *County of Wapello, ss:*

Sworn to and subscribed before me this day by the above-named affiant, and I certify that I read said affidavit to said applicant and witnesses, including the words ——, added, and acquainted them with its contents before they executed the same. I further certify that I am in nowise interested in said case, nor am I concerned in its prosecution; and that said affiants are credible persons.

J. T. PERDUE, *Clerk District Court.*
C. E. NORTON, *Deputy.*

Official copy respectfully furnished for the information of Hon. F. M. Cockrell, United States Senate.

By order of the Secretary of War:

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

WAR DEPARTMENT,
Record and Pension Division, June 24, 1890.

The official records thus show that one John Lewis was enrolled as a substitute, and not in his own right as a soldier, December 9, 1864, to serve three years, and was present with his company on April 30, 1865, and on June 11, 1865, deserted, and no further official record is found of him.

From 1865 to 1888, a period of twenty-three years, he seems to have been perfectly satisfied with his military status, and then makes application for the removal of the charge of desertion, as shown by his affidavit of February 24, 1888. In this affidavit he claims that his true name is Morris L. Davis, and that he is the same person who enlisted in Company E, First Regiment Delaware Infantry, under the name of John Lewis, and that he enlisted under that name, being his mother's maiden name, for the reason that his parents would not give him permission to enlist, and being only about sixteen years of age, he ran away from college in New York, with several other students.

Now, the official record shows that the John Lewis who enlisted in Company E was born in London, was twenty-one years old, a laborer, was 5 feet 7 inches high, and instead of volunteering merely enlisted as a substitute for one William W. Graham, a drafted man, and therefore entered the service for a pecuniary consideration. In this affidavit he states that he served until about July, 1865, when he left his regiment, being sick, but does not state where he went. It also shows his employment of an attorney in the case.

Now, there is no evidence whatever to show, in the first place, his identity as the John Lewis who enlisted as indicated; and even if he were the same John Lewis there is no evidence whatever to justify Congress in removing the charge of desertion or in affording the relief prayed for.

Your committee therefore report the bill back to the Senate adversely, and recommend that it be indefinitely postponed and the relief prayed for be not granted.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1474.

IN THE SENATE OF THE UNITED STATES.

JULY 10, 1890.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 2527.]

The Committee on Military Affairs, to whom was referred the bill (S. 2527) to remove the charge of desertion from the record of Manus Hanbelt, have duly considered the same and submit the following report:

This bill directs the Secretary of War to remove the charge of desertion from the record of Manus Hanbelt, late of Company G, Fiftieth Wisconsin Volunteer Infantry.

In connection with this bill there was filed with your committee the affidavit of said Manes Hanvelt, the claimant, and also the affidavit of Phil Blakely, both of the same company. In his affidavit, Hanvelt claims that he was detailed to help cook for some of the officers of the regiment, and while the boat was lying at St. Joseph, Mo., he went ashore to obtain supplies, and before he could return the boat pulled out and thereby he was left, and no way possible for him to rejoin his company and regiment, and he returned to his home.

Phil Blakely makes affidavit that he was detailed as cook for the officers and that the said Hanvelt was detailed to assist him, and that at St. Joseph, Mo., it became necessary to send a detail ashore for stores, and in that detail which went ashore, among others, was Manes Hanvelt, and before he could return to the boat the boat pulled out and left him on shore.

Your committee referred the bill to the Secretary of War for information and report, and received in reply the following letter from the Secretary of War and accompanying report from the record and pension division of the War Department.

WAR DEPARTMENT,
Washington City, March 28, 1890.

SIR: In reply to your request of the 27th instant for information upon Senate bill 2527, Fifty-first Congress, first session, to provide for the removal of the charge of desertion from the record of Manus Hanbelt, I have the honor to inclose a report from the officer in charge of the record and pension division of this Department.

Very respectfully,

REDFIELD PROCTOR,
Secretary of War.

Hon. JOSEPH R. HAWLEY,
Chairman Committee on Military Affairs, United States Senate.

Case of Manes Hanvelt, late private, Company G, Fifth Wisconsin Volunteers..

RECORD AND PENSION DIVISION, *March* 28, 1890.

Manes Hanvelt, private, Company G, Fifth Wisconsin Volunteers, was enrolled on March 9, 1865, to serve one year. He is reported present with his company on June 30, 1865, and as having deserted on August 26, 1865. He never returned from desertion, although his company was retained in service until July 14, 1866. The company morning reports show him, "Deserted, August 26, 1865, at St. Joseph, Missouri, while the company was on the steamer *Lacey*.

No testimony in the case is on file in the War Department.

As the service of this soldier prior to May 1, 1865, amounted to a period less than six months, and as it does not appear that on the date when he left his command he was suffering from any wounds, disease, or injury incurred in the line of duty, and was thereby prevented from completing his term of service, the Department is not empowered to remove the charge of desertion under the provisions of the act of Congress, approved March 2, 1889.

The name of this soldier is not borne as Manus Hanbelt.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

The SECRETARY OF WAR.

From this official report the name of the claimant is seen to be "Manes Hanvelt," and that he was enlisted on March 9, 1865, to serve one year, and deserted August 26, 1865, at St. Joseph, Mo., while the company was on the steamer *Lacey*, and that his company was retained in the service until June 14, 1866, and that the claimant never returned to his company from the date of the alleged desertion until its muster-out at Madison, Wis., in June, 1866.

From the official papers obtained from the War Department in the case of William Winchell, of the same company, for whose relief a similar bill has been presented, it appears that three members of Company G are shown to have deserted on August 26, 1865, at St. Joseph, Mo., and sixteen soldiers from other companies of the same regiment deserted at the same time and place. No effort seems to have been made by this soldier to rejoin his command or to communicate with his company and advise his officers of the fact of his having been left without fault on his part, if such were the case, and in this way have prevented this charge of desertion being made. His regiment was transported to Madison, Wis., in 1866 and there mustered out of the service, and this soldier had certainly not performed such severe and arduous duties from the time of his enlistment on the 9th of March, 1865 to the 26th of August, 1865 as to keep him from rejoining his company at or before the date of its muster-out.

Your committee therefore see no just grounds upon which the relief prayed for in this bill can be granted, and therefore report the bill back to the Senate adversely, and recommend that the relief prayed for be not granted.

O

51st Congress, 1st Session. | SENATE. | Report No. 1475.

IN THE SENATE OF THE UNITED STATES.

July 10, 1890.—Ordered to be printed.

Mr. Cockrell, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 2526.]

The Committee on Military Affairs, to which was referred the bill (S. 2526) to remove the charge of desertion from the record of William Winchell, have duly considered the same and submit the following report:

This bill directs the Secretary of War to remove the charge of desertion from the record of William Winchell, late of Company G, Fiftieth Wisconsin Volunteer Infantry.

Accompanying the bill were the following affidavits of William Winchell and Phil. Blakely:

State of Wisconsin, *County of Pierce, ss:*

Personally appeared before me, a clerk of the circuit court within and for said county and State, William Winchell, who is fifty years of age, and whose post-office address is Red Wing, Goodhue County, Minn., post-office box 462, and who was a private in Company G, Fiftieth Regiment Wisconsin Volunteers; being first duly sworn, deposes and says that he was detailed to help cook for some of the officers of said regiment on the way up the Missouri River on their way to Fort Rice, Dak., in the fall (about September) 1865, and while the boat was lying at St. Joseph, Mo., he was sent ashore to obtain supplies, and before he could return the boat on which the company and regiment were traveling pulled out and proceeded on her journey, and thereby the said William Winchell was left, and no way possible for him to rejoin his company or regiment, he returned to his home in Wisconsin. This affidavit is made for the purpose of obtaining a discharge from the service.

William Winchell.

Sworn to and subscribed before me this 24th day of February, 1888.

[Seal.] E. J. Fitzgerald,
Clerk of the Circuit Court.

State of Wisconsin, *County of Pierce, ss:*

Personally appeared before me, a clerk of the circuit court within and for said county and State, Phil. Blakely, who is forty-nine years of age, and whose post-office address is Waverly, Pierce County, Wis., and who was a private in Company G, Fiftieth Regiment Wisconsin Volunteers; being first duly sworn deposes and says that he was detailed as cook for several of the officers of said regiment on the way up the Missouri River on their way to Fort Rice, in the fall (about September), 1865, and that among other soldiers of said Company G, William Winchell was detailed to assist said Blakely in the duties of cook, and while our boat was lying at St. Joseph, Mo., it became necessary to send a detail ashore for stores and in that detail that thus went ashore among others were the said William Winchell, and before he could return to the boat on which the company and regiment were quartered the boat pulled out and proceeded on her journey and thereby the said William Winchell was left and no way possible for him to join his company or regiment, he then returned to his home in Wisconsin. This affidavit is made for the purpose of assisting said Winchell to obtain a discharge from the service.

Phil. Blakely.

Sworn and subscribed before me this 24th day of February, 1888.

[Seal.] E. J. Fitzgerald,
Clerk of the Circuit Court.

Your committee referred the bill to the Secretary of War for information and report, and in reply received the following letter from the Secretary and the accompanying report from the record and pension division:

WAR DEPARTMENT,
Washington City, March 28, 1890.

SIR: In reply to your request of the 27th instant for information upon Senate bill 2526, Fifty-first Congress, first session, to provide for removal of the charge of desertion from the record of William Winchell, I have the honor to inclose a report from the officer in charge of the record and pension division of this Department.

Very respectfully,

REDFIELD PROCTOR,
Secretary of War.

Hon. JOSEPH R. HAWLEY,
Chairman Committee on Military Affairs, United States Senate.

Case of William Winchell, late private Company G, Fiftieth Wisconsin Volunteers.

RECORD AND PENSION DIVISION, *March 28, 1890.*

William Winchell, private, Company G, Fiftieth Wisconsin Volunteers, was enrolled on March 3, 1865, to serve one year, and is reported as having deserted on August 26, 1865, at St. Joseph, Mo. On the date of the desertion the company was on the steamer *I. H. Lacey*, en route from Fort Leavenworth, Kansas, to Fort Rice, Dakota. He never returned, although his company was retained in service until June 14, 1866, when it was mustered out at Madison, Wis.

On March 8, 1880, this man made application for his discharge, and testified that, while en route for Fort Rice, Dakota, the transport stopped at St. Joseph, Mo., and "all went ashore;" while there the transport left, and he with many others was left without any chance to join the company.

He was informed by the Department on May 4, 1880, that, as he appears to have made no effort to rejoin his company, he can only be considered as an actual deserter and discharged as such.

An application for removal of the charge of desertion was rejected on January 18, 1886, the provisions of the act of Congress approved July 5, 1884, not warranting the desired relief; and since that date the status of the case has not been changed by the introduction of new testimony, or by subsequent legislation, the act of Congress approved March 2, 1889, making six months' faithful service prior to and until May 1, 1865, a requisite for relief in a case of this character.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

The SECRETARY OF WAR.

In order to get all information possible, your committee again applied to the record and pension division of the War Department for additional information, and received in reply the following letter and the accompanying copy of the application of William Winchell for the removal of the charge of desertion, made to the War Department:

WAR DEPARTMENT, *Washington City, June 24, 1890.*

SIR: Referring to your request of the 21st instant (received in this Department on the 23d instant), for certain information relative to the case of William Winchell, a former member of Company G, Fiftieth Wisconsin Volunteers, additional to that contained in report furnished the chairman of the Senate Committee on Military Affairs by this Department on March 28, 1890, upon Senate bill, No. 2526, Fifty-first Congress, first session, I am directed by the Secretary of War to inform you that the official records show that three men (including Winchell) deserted August 26, 1865, at St. Joseph, Missouri, from Company G, Fiftieth Wisconsin Volunteers, and that 16 men deserted at the same time and place from other companies of that regiment.

Philip Blakely, Company G, Fiftieth Wisconsin Volunteers, is borne on muster roll of that company for July and August, 1865, as "present on daily duty as cook since August 20, 1865," and he is so reported on subsequent rolls to and including April 30,

1866. He was mustered out with company June 14, 1866, and he is not charged with desertion on the records.

A copy of the application of Winchell for an honorable discharge is herewith inclosed.

Very respectfully,

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

Hon. F. M. COCKRELL,
United States Senate, Washington, D. C.

Claim for honorable discharge.

STATE OF WISCONSIN, *County of Milwaukee, ss:*

On this 8th day of March, A. D., 1880, before me, the undersigned, clerk of the municipal court in and for the city and county and State above named, personally appeared William Winchell, aged forty-one years, a resident of city of Milwaukee, county of Milwaukee, State of Wisconsin, who, being sworn according to law, deposes as follows, to wit:

I am the identical William Winchell, who was a private in Company G, Fiftieth Regiment, Wisconsin Volunteers; I was enrolled on or about the 20th day of March, 1865, for one year, and was discharged at ——, State of ——, on the —— day of ——, 186—by reason of the close of the war. I further state that while en route for Fort Rice, Dak., on transports on Missouri River, stopped at St. Joseph, Mo., and all went ashore; while there, the transport left, and I, with a great many others, was left, and without any chance of joining the company, and never received an honorable discharge.

I have never been employed in the military service of the United States otherwise than set forth above. I have not bartered, sold, assigned, transferred, loaned, or given away my discharge papers, nor any interest in any bounty whatever.

I make this declaration for the purpose of procuring an honorable discharge.

My post-office address is care George R. Clements, box 901, Red Wing, Minn.

And I hereby authorize and empower Nathan W. Fitzgerald, of Washington, D. C., my true and lawful attorney, with full power of substitution and revocation, to prosecute this my claim, to receive my certificate or draft that may be issued therefore in my name, receipt for the same, and receive any and all moneys due thereon, and to do any other act in my name necessary to the full and final settlement of this claim. Witness my hand and seal this day and year above written.

WILLIAM WINCHELL.

Attest:
JOHN ROPER.
EDWARD SIMPSON.

Also personally appeared John Roper, residing at city and county of Milwaukee, and Edward Simpson, residing at city and county of Milwaukee, persons whom I certify to be respectable and entitled to credit, and who being by me first duly sworn according to law say they have known William Winchell for eight years, and they were present and saw him sign his name to the foregoing declaration; that they have every reason to believe, from the appearance of said claimant and their acquaintance with him, that he is the identical person he represents himself to be; and that they have no interest in this claim whatever.

JOHN ROPER.
EDWARD SIMPSON.

Sworn to and subscribed before me this eight day of March, 1880.

The contents of the foregoing declaration were fully made known and explained to claimant before swearing, including the words—added; and I have no interest in the claim whatever.

JULIUS MEISCOMKEL,
Clerk of the Municipal Court.

Official copy respectfully furnished for the information of Hon. F. M. Cockrell, United States Senate.

By order of the Secretary of War.

F. C. AINSWORTH,
Captain and Assistant Surgeon, United States Army.

WAR DEPARTMENT, RECORD AND PENSION DIVISION,
June 24, 1890.

The official records show that he was enrolled on March 3, 1865, to serve one year, and is charged with desertion on August 26, 1865, at St. Joseph, Mo., his company at that time being on the Steamer *Lacey* en route from Leavenworth, Kans., to Fort Rice, Dak., and that his company was retained in the service until June 14, 1866, nearly one year thereafter, when it was mustered out at Madison, in the State of Wisconsin.

In his first application to the Secretary of War for the removal of the charge of desertion, which was duly verified by his affidavit, in 1880, he stated that, "while en route for Fort Rice, Dak., on transport on the Missouri River, stopped at St. Joseph, Mo., and all went ashore, and while there the transport left, and I, with a great many others, was left, and without any chance of joining the company, and never received an honorable discharge."

There is no pretense in this affidavit that he was detailed to go ashore for any particular duty or service, but it is expressly stated that all went ashore and while on shore he and a great many others were left, and having no chance to join the company, never received any discharge.

In the second affidavit, made February 24, 1888, he states "that he was detailed to help cook for some of the officers, and while the boat way lying at St. Joseph, Mo., he was sent ashore to obtain supplies, and before he could return the boat pulled out and proceeded on her journey and he was left, and no way possible for him to rejoin his company, he returned to his home in Wisconsin."

This last statement is sustained by the affidavit of Phil. Blakely, who seems to have been detailed as a cook on August 20, 1865, six days before the act of desertion. A report of the record and pension division of the War Department, of June 24, 1890, shows that two other men from the same company deserted at the same place and sixteen men from other companies of the same regiment deserted at the same place. This claimant shows no effort whatever to rejoin his company. His company remained in the service until the 14th of June, 1866, and it was then transported to Madison, Wis., and there duly mustered out. Certainly this soldier could have ascertained where his company was and could have joined it before June 14, 1866, if he had so desired, and yet not a single effort was made. No report was made to his company officers as to his being left and unable to join the command so far as any evidence before your committee shows. In view of all the facts, your committee see no grounds upon which the relief indicated in the bill can be justly and properly granted, and therefore report it back to the Senate adversely and recommend that it be indefinitely postponed and the relief prayed for be not granted.

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51st Congress, 1st Session. | SENATE. | Report No. 1476.

IN THE SENATE OF THE UNITED STATES.

JULY 10, 1890.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 1290.]

The Committee on Military Affairs, to which was referred the bill (S. 1290) for the relief of John McKimmy, have duly considered the same and submit the following report:

Accompanying this bill, there was referred to your committee a statement by the claimant, dated November 9, 1889, in which he sets forth that he was recruited in Company G, Twenty-fifth Indiana Volunteers, by Sergt. Hiram Hunsacker, about January 1, 1862, to serve the unexpired term of said regiment and company, which he did faithfully, and that his time would have been out on or about the 18th of August, 1864, and that his regiment was ordered to join Sherman on or about August 5, 1864, and he was excused by Dr. Thomas, the regimental surgeon, on account of sore eyes, and was transferred from Decatur, Ala., to Nashville, August 7, 1864, thence to Hospital No. 16, at Jeffersonville, Ind., thence to Soldiers' Home at Indianapolis, Ind., and that he was absent in the Army when his regiment returned to Indianapolis to be mustered out, and being absent was marked as a deserter; and that he soldiered from May 10, 1861, to November 10, 1865, and asked that the charges of desertion might be removed. This statement is without any affidavit, and upon the same paper is a certificate from John Nilson, late captain Company G, Twenty-fifth Regiment Indiana Volunteers, dated Smithfield, Jasper County, Mo., September 22, 1889, and addressed "To whom it may concern," in which he states that he is personally acquainted with the claimant, who was—

> Recruited by Sergt. Hiram Hunsacker, of the same company and regiment, at Medora, Jackson County, Ind., on or about the 1st day of January, 1863, under a general order of Adjutant-General Noble, of the State of Indiana.
>
> Under that order it was my understanding that the recruits were enlisted to serve the unexpired term of the regiments of the different commands, and that the said John McKimmy was mustered January 7, 1863, at Indianapolis, Ind., as appears on company records, and that he joined the regiment at Davis Mills on the 12th of January, 1863, and that he was a diligent and faithful soldier up to the time of our leaving the non-veterans at Decatur, Ala., about August 5, 1864, and said McKimmy and others was left on account of waiting muster-out and being excused by the regimental surgeon.

There is also attached to the same paper a statement, signed James D. Wright, dated October 23, 1889, in which he says that he well remembers that the claimant was recruited to "serve the unexpired term of the regiment, and Colonel Morgan said that the said recruit should be mustered out with the old members of the regiment," and that he has read over the statement of Captain Nilson and knows the statements are true.

Your committee referred the bill to the Secretary of War for report and information, and received in reply the following letter and accompanying report:

WAR DEPARTMENT,
Washington City, June 3, 1890.

SIR: In reply to your request of the 2d instant for information upon Senate bill 1290, Fifty-first Congress, first session, to provide for the relief of John McKimmy, Company G, Twenty-fifth Indiana Volunteers, I have the honor to inclose a report from the officer in charge of the record and pension division of this Department.

Very respectfully,

REDFIELD PROCTOR,
Secretary of War.

Hon. JOS. R. HAWLEY,
Chairman Committee on Military Affairs, United States Senate.

Case of John (G.) McKimmy, Company G, Seventeenth Indiana Volunteers; Company G, Twenty-fifth Indiana Volunteers; Company F, Twenty-eighth Illinois Volunteers.

RECORD AND PENSION DIVISION, *June* 3, 1890.

John McKimmy was originally enrolled on June 12, 1861, at Indianapolis, to serve three years, in Company G, Seventeenth Indiana Volunteers. He deserted October 30, 1862, at Columbia, Ky.

This charge of desertion was removed and he was honorably discharged as of Company G, Seventeenth Indiana Volunteers, to date October 30, 1862, on February 4, 1887, under provisions of act of Congress approved May 17, 1886.

He was again enrolled on January 7, 1863, at Indianapolis, to serve three years, in Company G, Twenty-fifth Indiana Volunteers. While serving in this organization he was sent to hospital at Nashville, Tenn., on August 6, 1864, thence to hospital at Jeffersonville, Ind., on September 4, 1864, and returned to duty on September 15, 1864. Failing to return to his command as ordered to do, he was dropped from the rolls of his company, with remark, "Deserted from hospital."

He again enlisted, as a substitute, on November 10, 1864, at Alton, Ill., in Company F, Twenty-eighth Illinois Volunteers, to serve one year. He was mustered out on November 10, 1865.

His application for removal of the charge of desertion of September 15, 1864, as of Company G, Twenty-fifth Indiana Volunteers, and for an honarable discharge, has been rejected by the War Department, as the benefits of provisions of the acts of Congress, approved May 17, 1886, and March 2, 1889, do not extend to this case, since, by his enlistment as a substitute, he received "bounty or other gratuity," to which he would not have been entitled under the terms of his enlistment in the Twenty-fifth Indiana Volunteers. His present status, therefore, is: He is a deserter from Company G, Twenty-fifth Indiana Volunteers, from September 15, 1864; and his service in Company F, Twenty-eighth Illinois Volunteers, from November 10, 1864, November 10, 1865, must, by the War Department, be considered as illegal, as his enlistment therein was in violation of the twenty-second (now fiftieth) Article of War.

In his application, this man, under date of December 6, 1886, made the following sworn statements regarding his desertion from the Twenty-fifth Indiana Volunteers: A general order had been issued by the adjutant-general of the State of Indiana to enlist men to fill up the old regiments to serve the unexpired term of said regiments. Under this order, and for the purpose of serving the unexpired term of the Twenty-fifth Indiana Volunteers, he enlisted in Company G of that regiment. When he came to be mustered in, the mustering officer wanted to muster him in for three years. He protested that he had enlisted for the unexpired term of the regiment. The mustering officer stated he could not muster him except for three years, but that under the order of the adjutant-general of Indiana he would guaranty that this soldier would be mustered out with his regiment. With this guaranty on the part of the mustering officer he consented to be mustered in for three years. In July, 1864, Governor Morton represented to the Secretary of War that the men who had enlisted for the unexpired term of the old regiments had done so in good faith, and that they should be mustered out. (The term of the non-veterans of the Twenty-fifth Indiana Volunteers expired about August 18, 1864. The regiment, composed of veterans and recruits, was retained in service until July 17, 1865.) On August 5, 1864, he was left in hospital; was sent to hospital at Jeffersonville, and thence to Soldiers' Home at Indianapolis, where he endeavored to get his discharge, believing that he had fully served according to his contract. (He fails to state to whom he applied for his discharge.) He then left and went home. Shortly afterward he went on a visit to Illinois and enlisted as a substitute.

John Wilson, late captain of the Twenty-fifth Indiana Volunteers, on December 3,

1886, testified: He was captain of Company G, said regiment. John McKimmey, of his company, was recruited at Medora, Jackson County, Indiana, by Sergeant Hiram Hunsucker, to serve in said regiment for the unexpired term of the regiment. McKimmey offered his services as a veteran, but was rejected on account of "limitation." (This affiant was mustered out with the regiment, a captain).

No other testimony, bearing on the desertion from the Twenty-fifth Indiana Volunteers, has been presented to this Department.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

The SECRETAY OF WAR.

From this official record it appears that the claimant was first enrolled in 1861 to serve three years, in Company G, Seventeenth Indiana Volunteers, and deserted October 30, 1862, in Kentucky. This charge of desertion was removed, and he was honorably discharged from that company to date October 30, 1862, on February 4, 1887, under the provisions of the act of Congress approved May 17, 1886, he having enlisted in another company within the time provided for in said law. He was enrolled on January 7, 1863, in Company G, Twenty-fifth Indiana Volunteers, to serve three years, and deserted from the hospital at Jeffersonville, Indiana, on September 15, 1864, when he was ordered from the hospital to join his command, instead of doing which he deserted and returned home; and on November 10, 1864, enlisted as a substitute in Company F, Twenty-eighth Illinois Volunteers, to serve one year, and as such substitute was paid a bonus, doubtless, for such enlistment.

His application for the removal of the charge of desertion from Company G, Twenty-fifth Indiana Volunteers, has been denied. Had he enlisted on November 10, 1864, in Company F, Twenty-eighth Illinois Volunteers, in his own right, then under the general law this charge of desertion standing against him upon his record in Company G, Twenty-fifth Indiana Volunteers, would have been removed by the War Department, such enlistment having been made within the time prescribed by law, after his desertion from the said Indiana regiment. But the War Department could not remove this charge, because his enlistment in said Illinois Volunteers was as a substitute, whereby he received some bounty or gratuity, to which he would not have been entitled had he remained in his original command.

Your committee think that the decision of the War Department in this case was just and right. This soldier undertook to decide for himself what were the terms of his contract of enlistment in the service of the Government, and knowing that the Government claimed the continued right to his services, and that others of the command, enlisted as he was, were continuing to recognize the right of the Government to continue them in the service, he deliberately left and went to his home, and then to another State, and joined a regiment as a substitute for some bounty or gratuity.

He must take the consequences of his own voluntary, willful act. There can be no question that he was abundantly able to perform military duty, or he would not have been received as a substitute, and instead of returning to his proper command he preferred enlisting for some bounty or gratuity as a substitute for some other man who was able to pay it.

Your committee therefore see no grounds upon which they can report this bill favorably, and therefore report the bill back to the Senate adversely, and recommend that it be indefinitely postponed, and that the relief prayed for be not granted.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1477.

IN THE SENATE OF THE UNITED STATES.

JULY 10, 1890.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 1720.]

The Committee on Military Affairs, to which was referred the bill (S. 1720) to remove the charge of desertion against Daniel Van Wicklin, have duly considered the same and submit the following report:

Your committee referred the bill to the Secretary of War, and received in reply the following letter:

WAR DEPARTMENT,
Washington City, January 10, 1890.

SIR: Referring to the application for removal of charge of desertion in the case of Daniel Van Wicklen, late of the Fortieth and Eighty-seventh New York Infantry and the Third Wisconsin Cavalry Volunteers, I am directed by the Secretary of War to inform you that this soldier deserted from Company F, Fortieth New York Volunteers September 6, 1862, and enlisted in Company A, Third Wisconsin Cavalry November 28, 1863.

As his absence in desertion exceeded four months, his case is not covered by the act of Congress approved March 2, 1889, and the Department has no power to remove the charge of desertion.

The applicant has been repeatedly so informed.

Very respectfully,

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

Address of applicant: Daniel Van Wicklen, No. 837 State avenue, Kansas City, Kans.

Hon. JOSEPH R. HAWLEY,
United States Senate, Washington, D. C.

Desiring further information your committee again referred the bill to the Secretary of War and received in reply the following letter and accompanying report:

WAR DEPARTMENT,
Washington City, June 3, 1890.

SIR: In reply to your request of the 2d instant, for information upon Senate bill 1720, Fifty-first Congress, first session, to provide for the relief of Daniel Van Wicklin, Company H, Eighty-seventh New York Volunteers, I have the honor to inclose a report from the officer in charge of the record and pension division of this Department.

Very respectfully,

REDFIELD PROCTOR,
Secretary of War.

Hon. JOS. R. HAWLEY,
Chairman Committee on Military Affairs, United States Senate.

Case of Daniel Van Wicklen,

Late private Company F, Eighty-seventh New York Volunteers, Company F, Fortieth New York Volunteers, Company A, Third Wisconsin Cavalry. (Violation of the twenty-second (now fiftieth) Article of War.

RECORD AND PENSION DIVISION, *June* 3, 1890.

The records show that the soldier was enrolled in Company F, Eighty-seventh New York Volunteers, October 6, 1861; that he was present for duty to June 30, 1862; that he was transferred to Company F, Fortieth New York Volunteers, per special orders No. 102, War Department, of September 5, 1862, and that he deserted September 6 (or 7), 1862, at Alexandria, Va. (The consolidation of the Eighty-seventh and Fortieth New York Volunteers took place on September 6, 1862, the officers of the former being mustered out. No muster roll was made for the months of July and August, 1862, for Company F, Eighty-seventh New York Volunteers, and the presence or absence of the soldier on August 31, 1862, can not, therefore, be determined.)

While a deserter at large, and in violation of the twenty-second (now fiftieth) article of war, the soldier enlisted November 28, 1863, at Madison, Wis., in Company A, Third Wisconsin Cavalry, to serve three years, and had a clear record to September 29, 1865, when he was mustered out with his command at Fort Leavenworth, Kans., as a private.

The following is a synopsis of the testimony submitted in this case, to wit:

On September 23, 1885, the soldier testified that he participated in all the engagements in the Peninsula campaign, wherein his regiment suffered heavily from disease and battle; that in the latter part of August, 1, 1862, the command reached Washington, and some four or five days after arrival he was detailed to guard commissary stores, and while so detailed he was suffering from chronic diarrhea; that after being relieved from guard duty he was sent to stragglers' camp, and there learned that the Eighty-seventh had been disbanded, and that what few officers remained after the second battle of Bull Run had gone to New York, so that he had no command to which he could report. Having heard that his colonel (Dodge) had gone to Brooklyn he went to that city, but found that the colonel was in Williamsburgh, having gone north for the purpose of recruiting, but which he did not do. That then he (the soldier) went to Oshkosh, Wis., where his family lived at the time, and as soon as he got well again he enlisted in the Third Wisconsin Cavalry.

On February 21, 1889, the soldier declared that he remained in the "stragglers camp" about two weeks, and that he did not learn of the consolidation of the Eighty-seventh and Fortieth regiments; that becoming worse in said camp he went to New York, where he was sick about eight months, and that upon recovering he went to Wisconsin where he re-enlisted.

On July 7, 1889, the soldier testified that while serving in the Third Wisconsin Cavalry he sustained a rupture, and that in his application for pension for that disability favorable action was denied on the ground that he was a deserter from a former organization; that his disability is getting worse as he gets old, and that it is almost impossible for him "to get work with able-bodied men."

The soldier's affidavit of January 4, 1890, is simply a repetition of his former statements.

J. H. Stone, late captain Company F, Eighty-seventh New York Volunteers, testified January 30, 1886, that when he left the regiment at Harrison's Landing, August 1, 1862, for duty in Washington, the soldier was then sick with diarrhea in a field hospital, and had been for some time; that knowing the soldier, affiant does not believe him to have been a deserter, as he had always been a first-class, zealous soldier, and always ready to do his duty when called upon.

Stephen A. Dodge, late colonel of the Eighty-seventh New York Volunteers, testified that up to the time he, affiant, was left on the field at Fair Oaks and taken to Libby Prison, he had found the soldier prompt and attentive to his duties as a member of said regiment.

(The medical records on file fail to show any evidence of treatment.)

The several applications for removal of the charge of desertion and the granting of an honorable discharge have been denied on the ground that as the period of absence from the date of desertion from the first organization to that of enlistment in the second exceeded the limit allowed by law favorable action could not be taken.

Nothing in the way of additional testimony has been received to change the soldier's status.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

The SECRETARY OF WAR.

From this official record it appears that this soldier was enrolled October 7, 1861, in Company F, Eighty-seventh New York Volunteers, and was present for duty until June 30, 1862. He was transferred to Company F, Fortieth New York Volunteers by special order No. 102, War Department, September 5, 1862, and that he deserted September 6 or 7, 1862, at Alexandria, Va., and that the consolidation of the Eighty-seventh and Fortieth New York Volunteers took place on September 6, 1862, the officers of the Eighty-seventh being mustered out of the service. On November 28, 1863, he enlisted at Madison, Wis., in Company A, Third Wisconsin Cavalry, to serve three years, and was honorably mustered out September 29, 1865.

In his application to the War Department for the removal of the charge of desertion he claims that in the latter part of August, 1862, his command reached Washington, and four or five days thereafter he was detailed to guard commissary stores, and while so detailed was suffering from chronic diarrhea, and when relieved from guard duty was sent to stragglers' camp, and there learned that the Eighty-seventh had been disbanded and that the few remaining officers had gone to New York, so that he had no command to which he could report; and that having heard Colonel Dodge had gone to Brooklyn, he went to that city but found the Colonel was in Williamsburgh, and he then went to Oshkosh, Wis., where his family lived at the time, and as soon as he got well he enlisted again, enlisting in the Third Wisconsin Cavalry. This was his statement in his first application for the removal of the charge of desertion.

In his second statement of February 21, 1869, he says that he remained in the stragglers' camp about two weeks, and did not learn of the consolidation of the Eighty-seventh and Fortieth regiments, and becoming worse, he went to New York, and was sick there about eight months, but on recovering he went to Wisconsin, where he re-enlisted. This is the claimant's own version of this transaction.

He certainly left his company early in September 1862, without leave; never returned to it, and never joined any other command for nearly fourteen months, or until November 28, 1863. There is no evidence to show his sickness during this long period, and according to his own statement, whilst in the stragglers' camp he learned that the Eighty-seventh regiment had been disbanded, and heard that his colonel had gone to Brooklyn, and he went to that city, but not finding the colonel he then went to Oshkosh, where his family lived at the time, and as soon as he got well, again enlisted in the Third Wisconsin Cavalry.

In his second statement he says that he was worse when he went to New York, and that he remained there about eight months, and upon recovery went to Wisconsin and there re-enlisted. In the meantime, he must certainly have been able to find out whether his command was still in the service or not. The veterans of the command remained in the service until 1864, and this man never rejoined his company.

The War Department very properly refused to remove the charge of desertion, and there is no evidence before your committee to show any reasonable ground whatever for the claimant either to leave his company or to remain absent therefrom.

Your committee therefore report the bill back to the Senate adversely, and recommend it be indefinitely postponed and the relief prayed for be not granted.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1478.

IN THE SENATE OF THE UNITED STATES.

JULY 10, 1890.—Ordered to be printed.

Mr. PASCO, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 837.]

The Committee on Claims, to whom was referred bill S. 837, having carefully considered the same, submit the following report thereon:

The claim involved in this case was first presented for legislative action to the Fiftieth Congress. A favorable report was made by the House Committee on Claims, and the bill was placed upon the calendar and remained there until the final adjournment. The Senate bill upon the same subject was referred to this committee, but no action was taken upon it. The claim was originally in favor of the late Thomas U. Walter, now deceased, who was employed by the President June 11, 1851, as architect to execute the plan for the extension of the Capitol, as authorized by the act of September 30, 1850. Upon his death his widow, Amanda G. Walter, became executrix of his last will and testament, and she now has control of and is urging the claim.

It originated in the acceptance of other responsibilities and the performance of other work, in the line of his profession as an architect, for the Government, not enumerated in his letter of appointment and, as he claimed in his life-time, not included in the duties of that appointment and not compensated for by his regular salary.

The following letter from the present Secretary of the Interior recites such of these employments of Mr. Walter as are shown by the records of that Department, and it seems clear that he received from the Government, during the years he acted as architect for the extension of the Capitol, no other compensation than the actual salary of that office, amounting, as the record shows, to $4,500 per annum.

DEPARTMENT OF THE INTERIOR,
Washington, March 28, 1890.

SIR: I have the honor to acknowledge the receipt of your letter of the 22d inst., inclosing a copy of Senate bill No. 837, in behalf of Amanda G. Walter, executrix of Thomas U. Walter, deceased, referred to you as a subcommittee of the Committee on Claims for examination, and requesting such information as the records of the Department may afford touching the designation of Mr. Walter as architect in charge of the erection of the wings of the Patent Office Building, services rendered in such capacity, and whether any provision was made for his payment therefor, etc.

In reply thereto I have to state that it appears from the records of the Department that Mr. Walter was appointed architect of the Capitol extension June 11, 1851, and that on the 29th of July, 1851, he was designated as superintendent of construction of the wings of the Patent Office Building; on the 31st of July, he accepted such appointment and thereafter appears to have prepared plans for the work which are now on file; that on the 30th of April, 1862 (in pursuance of joint resolution of April 16, 1862, transferring the supervision of Capitol extension and erection of new dome to

the Interior Department), he was authorized to resume his duties as architect of the work, and on the 28th of February, 1863, he was directed to perform such duties in relation to the Patent Office Building as had theretofore been discharged by Mr. Edward Clark, architect; thereafter he appears to have continued to discharge such duties up to the time of his resignation, March 31, 1865. No record is found of any authority for the payment to Mr. Walter of any compensation for work performed as superintendent of construction of the Patent Office Building under the designation of July 29, 1851, nor can it be ascertained whether he actually received any compensation for services so rendered, inasmuch as the accounts of the Commissioner of Public Buildings and Grounds by whom the appropriation for the extension of the Patent Office Building was disbursed are not on file in this Department.

For the services rendered by him in connection with the erection of the wings of said building after February 28, 1863, it will be seen from the inclosed copy of a letter addressed by the Department under date of February 24, 1864, to the Hon. Solomon Foote, chairman of the Senate Committee on Public Buildings and Grounds, that Mr. Walter received no compensation whatever. In relation to the character of the service rendered as superintendent the records of the Department are not very clear; more definite information on that point may be obtained from the reports of the Secretary of the Interior and Commissioner of Public Buildings and Grounds in relation to the progress of the work embraced in House Ex. Doc., part 1, Thirty-second Congress, second session, volume 1, pages 35 to 45 and 581; House Ex. Doc. No. 1, part 1, Thirty-third Congress, second session, volume 1, page 599; Senate Ex. Doc. No. 1, Thirty-fourth Congress, first session, volume 1, page 130; House Ex. Doc. No 1, part 1, Thirty-fourth Congress, third session, volume 1, pages 181 and 852; Senate Doc. No. 11, Thirty-fifth Congress, first session, volume 2, pages 68 and 723; Senate Doc. No. 1, part 1, Thirty-fifth Congress, first session, volume 2, pages 68 and 723; House Ex. Doc. No. 1, Thirty-seventh Congress, third session, volume 2, page 601.

In this connection your attention is invited to the inclosed copy of a letter addressed by the Department on the 27th of March, 1884, to the Hon. Thos. Ochiltree, House of Representatives, in response to a request from him for a report upon the memorial of Thomes U. Walter to Congress for compensation for services performed by him, made under the direction of the Secretary of the Interior in the extension of the Patent Office Building, and repairs on the Congressional Library, etc., from which it will beseen that Mr. Edward Clark, to whom the matter was referred, reported that he was the certifying officer for the expenditures incurred in the extension of said building and that in his opinion Mr. Walter received no compensation for services in connection therewith, etc. Copies of the appointment of Mr. Walter as superintendent of the work referred to, his resignation of the office of architect of the Capitol extension, and such other papers from the files and records of the Department as bear upon the subject of your inquiry are herewith transmitted.

Very respectfully,

JNO. W. NOBLE,
Secretary.

Hon. SAMUEL PASCOE,
United States Senate.

The extract from the letter to Hon. T. P. Ochiltree of March 27, 1884, written by Hon. H. M. Teller, when Secretary of the Interior, above referred to, is as follows:

Upon reference of your letter and the inclosure to Edward Clark, esq., the present Architect of the Capitol, and who was the architect in immediate charge of the extension of the Patent Office Building, he reports as follows: As I was the certifying officer for the expenditures incurred in the extension of the Patent Office Building I am clearly of the opinion that Mr. Walter received no compensation for his services in connection therewith; nor do I find any record in this office of payment to Mr. Walter specifically for services as architect for the reconstruction of the Congressional Library Rooms.

The accompanying letter from the present Secretary of the Treasury, and the letters which follow it (1) from Secretary Chase, of December 28, 1863; (2) from Supervising Architect Rogers, February 5, 1864, and (3) from Secretary Chase, February 13, 1864, show that Mr. Walter rendered other services in connection with the extension of the Treasury Building. Secretary Windom's letter also tends to show that the compensation received by Mr. Walter was limited to the salary attached to the original employment.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., May 16, 1890.

SIR: Your letters of March 23d, and April 17th, last, were duly received and briefly acknowledged on the 21st ultimo, requesting information for your use in consideration of Senate bill 837 to adjudicate the claim of Amanda G. Walter, executrix of Thomas U.W alter, deceased, now before you as a subcommittee of the Senate Committee on Claims.

I have the honor to inform you that the accounts and records of this Department as far as presumed to be connected in anyway with the several items of the bill in question have been carefully searched, covering a period of several years subsequent to the date of Mr. Walter's appointment as architect of the Capitol, viz:

June 11th, 1851, and particularly the records of the Treasury extension, subsequent to the passage of the act of March 12th, 1855, for the continuation of the Treasury Building under the direction of the President of the United States, according to the plans proposed by Mr. Walter, and approved by Committee of the Senate and of the House of Representatives on Buildings and Grounds, but have failed to find in this examination any information of value to you in the connection named.

The accounts of the disbursing agents for that period are registered and recorded under the name of the disbursing officer or agent and examination has been made of the accounts of the persons known to have been acting in that capacity at any time during the period named, but no disbursements appear for architectural designs or other services rendered by the late Thomas U. Walter.

It is presumed that from the Interior Department may readily be obtained the desired information as to the length of time Mr. Walter drew his regular salary, viz: $4,500 per annum as architect of the Capitol. The original design for the continuation of the building, signed by Mr. Walter as architect, and bearing indorsed thereon the approval of the Committee of Public Buildings and Grounds of both the Senate and House of Representatives over the signatures of J. A. Bayard and Burton Craige as chairmen, respectively, of the two committees, is filed in the office of the Supervising Architect, and also a plan of the original design of Robert Mills contemplating the completion of the building in sandstone as began upon the east front. At Mr. Mills's death Mr. Walter modified the plans for granite construction and made many changes from the original design.

As further evidence to you of Mr. Walter's connection with the Treasury extension, I inclose herewith copy of a letter addressed to him by the then Secretary of the Treasury, Hon. S. P. Chase, under date of December 28, 1863, asking his opinion particularly as to the cost, utility, and architectural effect of a proposed alteration of the south portico vestibule of the Treasury extension, and also of a letter addressed by the then supervising architect, Isaiah Rogers, under date of February 5, 1864, to Secretary Chase, and the Secretary's reply thereto dated February 13, 1864.

A sectional drawing, partially destroyed, is on file in the architect's office, showing the alterations proposed and adopted.

Respectfully yours,

WM. WINDOM,
Secretary.

Hon. S. PASCO,
Committee on Claims, United States Senate.

TREASURY DEPARTMENT, *December* 28, 1863.

If compatible with your public duties I would desire your examination (in conjunction with Mr. C. L. West, superintendent of the dome Capitol extension) of a proposed alteration of the south portico vestibule of the Treasury extension and your opinion (in writing) on the practicability, cost, utility, and architectural effect of such alteration.

You will find papers and plans describing it in the office of the Supervising Architect of this Department, who will give you all the information and assistance you may desire. I would be obliged to you for an early attention to this matter if possible.

Very respectfully,

S. P. CHASE,
Secretary of the Treasury.

THOS. U. WALTER, Esq.,
Architect U. S. Capitol extension.

TREASURY DEPARTMENT, *February* 5, 1864.

I have the honor to acknowledge the receipt of the report of Mr. T. U. Walter upon the proposed change in the south portico of the Treasury Building, and presume, as he fully indorses my plan except on one point, it is only necessary to explain the difference between us.

The question is purely one of expense, Mr. Walter's plan involving an expenditure of $11,854.18 over and above mine, according to the inclosed estimate of the sworn computer of this office. The plan suggested by Mr. Walter had been previously considered by me and rejected as extravagant. I therefore recommend the adoption of the plan as originally proposed.

Very respectfully,

ISAIAH ROGERS,
Supervising Architect.

Hon. S. P. CHASE,
Secretary of the Treasury.

TREASURY DEPARTMENT, *February* 13, 1864.

SIR: I have received your letter of the 5th instant, reporting upon the plan of Messrs. T. U. Walter and C. L. West for the proposed alteration in the south portico of the Treasury Building, which differs in some particulars from the plan presented by you.

You are hereby authorized to make the alteration suggested, and to use your discretion as regards which of the two plans presented shall be followed, and after making your selection you will strictly adhere to the one decided upon, in executing the work.

I am, very respectfully,

S. P. CHASE,
Secretary of the Treasury.

ISAIAH ROGERS, Esq.,
Supervising Architect.

A letter from the present Postmaster-General and a copy of one accompanying it from Hon. James Campbell, formerly Postmaster-General, dated June 3, 1854, show that services were rendered the Government by Mr. Walter in connection with the extension of the building of that Department.

OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., March 26, 1890.

SIR: I have the honor to acknowledge the receipt of your letter of the 22d inst., submitting a copy of a bill (S. 837) to adjudicate the claim of Amanda G. Walter, executrix of Thomas U. Walter, deceased, for certain services as architect, among others, for his alleged services touching the extension and continuation of the Post-Office Building. You ask for such information as the records of this Department may contain in regard to this matter.

I beg to advise you in reply that a search of the index to letters recorded in this Department has led to the discovery of one letter, a copy of which is herewith inclosed, which makes allusion to "a report and estimate from Mr. Walter," which were submitted by the Postmaster-General on the 3d of June, 1854, to the chairman of the Committee on Public Buildings of the Senate, together with plans prepared by the Architect of Public Buildings, and estimates for extending the Post-Office Building.

Very respectfully,

JNO. WANAMAKER,
Postmaster-General.

Hon. S. PASCO,
United States Senate.

POST-OFFICE DEPARTMENT, *June* 3, 1854.

SIR: Finding the present Post-Office Building entirely too small for the business of the Department, I requested the Architect of Public Buildings to prepare plans and estimates for extending it. These plans I herewith submit to you, together with a report and estimate from Mr. Walter, and respectfully request you to bring the subject before the committee, with a view to such action of Congress in reference to it as may be deemed most expedient.

I am of opinion that these plans, if properly carried out, will afford ample and convenient accommodations, not only for the Post-Office Department, but also for the city post-office, which is now kept in a very frail and unsafe building adjoining the General Post-Office.

I am, very respectfully, your obedient servant,

JAMES CAMPBELL,
Postmaster-General.

HON. JAMES A. BAYARD,
Chairman Committee Public Buildings, United States Senate.

The records of the Interior Department furnish the following letters, which further relate to the employment of Mr. Walter by the Government in connection with these matters. Copies of them have been furnished to the committee by the Secretary. His original employment as architect to execute the plan adopted for the extension of the Capitol was brought about by the following letter of appointment of President Fillmore and the letter of Secretary Stuart fixing the salary.

EXECUTIVE MANSION, *Washington, June* 11, 1851.

SIR: You are hereby appointed architect to execute the plan adopted for the extension of the Capitol, as authorized by the act of Congress, approved the 30th of September, 1850, making appropriations for the civil and diplomatic expenses of the Government for the fiscal year ending 30th of June, 1851. Your compensation will be determined hereafter.

MILLARD FILLMORE.

MR. THOMAS U. WALTER,
Present.

DEPARTMENT OF THE INTERIOR, *October* 9, 1851.

SIR: I have to inform you that your salary as architect of extension of the Capitol, has been fixed by the President of the United States at $4,500 per annum, to commence from date of your appointment.

I am, sir, very respectfully, your obedient servant,

ALEX. H. H. STUART,
Secretary.

THOMAS U. WALTER, Esq.,
Architect, etc., Washington, D. C.

The following letters afford proof of other work entrusted to him by the Department of the Interior:

DEPARTMENT OF THE INTERIOR, *July* 29, 1851.

SIR: I inclose a copy of a letter addressed to Mr. Robert Mills, by which you will perceive that the superintendence of the erection of wings to the Patent Office Building is confided to you.

You will receive from Mr. Mills all contracts, papers, etc., relating to the work, giving him duplicate receipts therefor; one of which should be forwarded to this Department.

I am, etc

A. H. H. STUART,
Secretary

MR. THOMAS U. WALTER.
Present.

DEPARTMENT OF THE INTERIOR,
Washington, July 29, 1851.

SIR: Upon consultation with the President, it has been concluded to put the future operations in regard to the erection of the additions to the Patent Office, under the supervision and control of Mr. Walter. Your services in the character of superintendent will, therefore, be no longer required, and you are requested to deliver to Mr. W. all the papers, plans, and other property of the U. S. connected with that work.

I am, etc.,

A. H. H. STUART,
Secretary.

MR. ROBERT MILLS,
Present

ARCHITECT'S OFFICE, U. S. CAPITOL,
Washington, D. C., July 31, 1851.

SIR: Your letter of the 29th instant, appointing me superintendent of the erection of the wings to the Patent Office Building is received, and I hereby accept the appointment.

I shall proceed to-day to receive from Mr. Mills "all contracts, papers, etc., relating to the work," giving him duplicate receipts therefor, one of which I shall request him to transmit to you, in compliance with your instructions

I am, sir, with great respect, your obedient servant,

THOS. U. WALTER,
Architect.

Hon. ALEX. H. H. STUART,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR, *March* 30, 1852.

SIR: You are charged with the superintendence of the repairs of the Congressional Library, and with the disbursement of the funds appropriated for that purpose, and you are requested to proceed with the work as rapidly as practicable.

I am, sir, very respectfully, your obedient servant,

ALEX. H. H. STUART,
Secretary.

THOS. U. WALTER, Esq.,
Architect, etc., Washington, D. C.

DEPARTMENT OF THE INTERIOR, *April* 23, 1852.

SIR: By direction of the President, you are hereby instructed to enter into bonds, in the penalty of $20,000, for the faithful discharge of the duties under the appointment from this Department, as disbursing agent and superintendent of the work to be executed in repairing the Congressional Library-room in the U. S. Capitol.

I am, sir, very respectfully, your obedient servant,

WM. A. GRAHAM,
Acting Secretary.

THOMAS U. WALTER, Esq.,
Architect, etc., Washington, D. C.

The following extract from the civil and diplomatic appropriation bill approved March 3, 1855, relates to his plans for the continuation of the Treasury Building.

For the continuation of the Treasury Building, three hundred thousand dollars, to be expended under the direction of the President of the United States, according to the plan proposed by Thomas U. Walter, architect, and approved of by the Committees of the Senate and House of Representatives on Buildings and Grounds, at the last session of Congress.

The following from the same bill relates to his plan for the continuation of the Post-Office Building:

For the continuation of the Post-Office Building, three hundred thousand dollars, to be expended under the direction of the President of the United States, according to the plan submitted by Thomas U. Walter, architect, to the Postmaster-General, and approved by the Committees of the Senate and House of Representatives, at the present session of Congress.

It is claimed that the construction of the present dome of the Capitol was entirely independent of the Capitol extension. It was provided for in the civil and diplomatic appropriation bill, approved March 3, 1855, from which the following extract is taken:

For removing the present dome, over the central portion of the Capitol, and the construction of one upon the plan as designed by Thomas U. Walter, architect of the Capitol extension, under the direction of the President of the United States, one hundred thousand dollars.

This work was all performed during the fourteen years (from June 11, 1851, to July 6, 1865) that Mr. Walter filled the position to which he was appointed by President Fillmore as architect to execute the plan for the extension of the Capitol, which had been accepted by the Congress the preceding year. There is no evidence whatever before the committee of any actual contract between Mr. Walter and the Government for any compensation in addition to his regular salary attached to that position. Mr. Walter did not, in his memorial, allege any, and Mr. Clark, the present Architect of the Capitol, whose affidavit in relation to the claim, made at the request of the chairman of the Committee on Claims of the House of Representatives of the Fiftieth Congress, appears in the record, says on this subject:

I have an impression that the Postmaster General, Hon. James Campbell, told me that Mr. Walter should be paid for his services in connection with that building.

No statement more positive than this bearing upon this point appears in the record, excepting those made by Mr. Walter to other parties, which appear further on in this report. The Congress and the heads of Departments seem to have acted as if Mr. Walter's whole time and services belonged to the Government, and as if they had a right to make use of them in connection with any of these great public works.

In a letter from Hon. J. P. Usher, then Secretary of the Interior, dated January 22, 1864, to Hon. Solomon Foote, chairman of the Senate Committee on Public Buildings and Grounds, giving a report of the progress of some of these works, he says:

In this connection I may also state that since the 1st of March, 1863, Mr. Walter, without additional compensation, has performed the duties of architect of the Patent Office Building, for which a salary of $2,000 per annum had for some time previously been paid.

It is a noticeable fact that during the fourteen years of his employment he made no demand upon the Government beyond his salary, and presented no claim for compensation for any additional work outside of the duties of his first appointment. And no such claim was presented in any formal shape until seven years after he resigned his position as architect.

But Mr. Walter states positively that he discharged these duties with the full expectation that he would be entitled to receive a suitable compensation therefor. He states in his memorial, addressed to Congress in 1882, that he was informed at the time he entered upon his duties as "superintendent of the erection of the wings of the Patent Office Building" that a salary of $1,500 per annum was attached to the position. But no similar statement is made as to any of the other additional work.

In 1872 he prepared his memorial to the Senate and House of Representatives, and the recapitulation of the sums claimed is as follows:

Recapitulation.

Wings of Patent Office Building	$10,500
Congressional Library	7,410
Extension of Treasury Building	10,000
Extension of Post-Office Building	36,450
Dome on old Capitol	47,500
Marine Barracks at Pensacola, Fla	500
Marine Barracks at Brooklyn, N. Y	1,000
Total	113,360

He enumerated other services for which he stated that he made no charge, as appears in the closing words of his memorial, which are as follows:

In addition to the foregoing works, Mr. Walter furnished the designs and detail drawings of the Government Hospital for the Insane, but for this service he makes no charge.

He also designed, by order of the War Department, extensive buildings for arsenal, workshops, etc., at Harper's Ferry, Va. He remodeled the interior of the Executive Mansion, making extensive alterations throughout the building. He made designs, detail drawings, and specifications for the wings of the Congressional Library, and, in short, he attended to all the requirements of the Government in the line of his profession, freely and without charge, except as far as it relates to the leading works hereinbefore specified. For his services in connection with these he believes himself to be justly entitled to an equitable compensation.

But notwithstanding the apparent neglect of his own pecuniary interests, it is manifest that he expected to receive a further compensation than his salary when he took time from his great work and his tremendous public responsibilities to think of his private affairs. His friend, Mr. Clark, the Architect of the Capitol, says that in their conversations, while employed together, he used to say that the heads of Departments, for which he performed services, said he would be paid, but would have to look to Congress for his reward. His widow says that he expected to draw the extra amounts all at once. He no doubt looked forward to this as a provision for his old age and for his family in case he was taken from them. She speaks of like conversations with her, in which he spoke of assurances from heads of Departments, such as he sometimes mentioned to Mr. Clark. Much of this work was necessarily done after office hours, when his time was his own. He labored often far into the night upon the work in which he seems to have been wholly absorbed. His health suffered, his constitution was broken down by these fourteen years of toil and responsibility, care and anxiety. His widow states that they went back to Philadelphia, their former home, after his resignation, and that he was unable to resume full work at his profession until 1874.

It is stated by Mr. Clark that he went back to Washington in 1867 to try to secure this additional compensation, but no formal presentation of the matter was made to the Congress, whence he was told his relief must come, until 1872. From that time, he continued his efforts here until October 30, 1877, when he died. The usual delays attended the case and no relief was obtained. Since his death his widow and executrix has continued the efforts commenced by her husband in his lifetime. The late Mr. S. J. Randall introduced a bill in her behalf in the House of Representatives of the Fiftieth Congress. It was referred to the Committee on Claims and a favorable report followed, the same as has already been mentioned.

It is not deemed necessary to attempt, in this report, to speak of the success of Mr. Walter's efforts as an architect. His works speak for themselves. They are worthy of the great country whose seat of Government they adorn. They are a monument to his industry, his skill, his genius, which will be the admiration of future generations of his countrymen.

The committee has only to deal with the business aspect of the case, and are restricted to the contracts and agreements between the Government and Mr. Walter and such rights and equities as have resulted from them. It is unfortunate that the heads of Departments and the late claimant left this whole subject to doubt and inference. If it was expected that the extra duties were to be discharged without additional

compensation, it should have been so stated when the additional appointments and assignments to duty were made. It is difficult now to place a money estimate upon the value of these services when the person rendering them failed to do so at the time. The value he fixed afterwards in his memorial was nearly double the amount he contracted to serve the Government for as architect, a position whose duties were sufficient for the entire time and effort of any man of ordinary industry and ability. It is manifest that this is largely in excess of any equitable claim he can have if measured by his own contract.

The committee, after carefully considering all the facts and circumstances of the case, are in favor of granting some relief. They are strengthened in this view by a letter from Hon. A. H. H. Stuart, who was Secretary of the Interior under President Fillmore, and under whose direction much of this work was done. The following extract is taken from this letter:

STAUNTON, VA., *March* 10, 1886.

MY DEAR SIR: I have had the honor to receive your letter of 25th ultimo, in which you submit to me some inquiries in regard to certain claims which Mr. Thomas U. Walter, architect, has presented against the Government of the United States for professional services.

Many years have elapsed since the date of the transaction referred to, and of course I can not pretend to retain accurate recollections of details. But in regard to some of the more prominent facts I think my memory may be relied on.

In 1851 it became my duty as Secretary of the Interior to have a general supervision of the erection of the new wings of the Capitol, for which Congress made provision, according to such plans as the President should approve.

The President and members of his cabinet took great interest in the subject. Distinguished architects were invited to present competing plans and specifications of the work. This was done, and after a mature consideration of the whole subject the plans proposed by Mr. Walter were approved and adopted, and he was appointed supervising architect, at the very paltry salary (in view of the magnitude of the work) of $4,500 per annum.

This, I feel very sure, was a singular and separate contract, relating exclusively to the two wings and the corridors connecting them with the old building.

At that time no provisions had been made for the erection of the new central dome, nor was it in immediate contemplation. It is my impression that it was an afterthought. The grandeur of the new wings and their new domes rendered the unsightly and insignificant "old central dome" an offense to the good taste of the country, and made the erection of the present splendid and graceful new dome a necessity.

I think it was in the winter of 1851 that the Congressional Library was burned. This was some months after Mr. Walter had been placed in charge of the erection of the new wings to the Capitol. He was employed to plan and supervise the restoration of the Library. But this was under an arrangement entirely distinct from his original contract.

[After commenting at length upon Mr. Walter's service on the extension of the wings of the Patent Office, Mr. Stewart continues:]

I can not undertake to say by whom Mr. Walter was paid for his services in this particular matter, or how much he received. But I am very sure that these services were in no wise connected with his original contract on the Capitol extension.

The erection of the new central dome of the Capitol was not commenced until some years after I left the public service, and was in no wise connected with his original contracts.

I hope I will be excused for saying that I was most favorably impressed with the whole conduct and bearing of Mr. Walter during my entire intercourse with him. I regarded him not only as a man of genius and great attainments in his profession, but as a gentleman of thorough integrity. He was ambitious of distinction and anxious to connect his name with these great national improvements, and I am persuaded that he looked more to fame than to money in his contracts. His great works have reflected honor on our country, and it seems to me they ought not to be settled for in a narrow and niggardly spirit.

Respectfully, yours, etc.,

ALEX. H. H. STUART.

Hon. WM. M. SPRINGER,
Chairman, etc.

The committee in seeking information upon this subject addressed a letter to General M. C. Meigs, whose long connection with the public works of the capital had given him abundant opportunities to become acquainted with the circumstances of the case. His reply corroborates much that had been learned from other sources and strengthens the claim for additional compensation. This statement gives a succinct statement of the facts with his views and the committee include it in their report:

WASHINGTON, D. C., *July* 2, 1890.

DEAR SIR: In reply to your letter of 28th June, in relation to Mr. Thomas U. Walter's service to the United States, as architect of the extension of the Capitol, and in designing other public buildings of the United States, I have the honor to report:

First. Mr. Walter in a competition instituted by Congress was the author of the preferred design and was appointed architect of the Capitol extension with an annual salary of $4,500 to erect the building according to that design with such modifications in final execution as are generally found on further and detailed study to be judicious and advisable.

His commission will be found printed in the public documents of the day. It was signed by the Hon. Alexander Stuart, then Secretary of the Interior Department, under which Department the building was begun and the great contracts made, and the foundations built up to the level of the basement floor of both wings.

A new administration then came into power. There had been much criticism, mostly, I believe, arising in the dissatisfaction of disappointed bidders for employment and for furnishing materials, which resulted in appointment of committees of investigation, notably Borland's report and McNair's report, which can be found in Pub. Doc. reports to Congress, about the beginning of the year 1853.

Mr. Walter's appointment, as I recollect its terms, was as architect of the Capitol extension; no more, no less. This letter of appointment fixed his compensation, and for that work only, as I remember it.

I was about this time detailed by the War Department, to whose care the work had been transferred by the President, to take charge of the whole business, to report on the fitness of the plans, the ability of the foundations, as then in existence to bear for all time the burden to be imposed upon them, etc.

I retained, by consent of the Secretary of War, Mr. Walter as architect. Some changes I required him to make in the plans, particularly of the location and plans of the halls for the Senate and for the House of Representatives. These were made and the work went on without further difficulty.

Second. During the time I remained in charge, it was known to me that Mr. Walter prepared designs for the extension around the square bounded by F street, Seventh street, and G street, northwest, the then existing Patent Office, which then occupied only the space on F street. The west front, however, had been designed by Mr. Walter, and begun, before I took charge of the Capitol extension and its office. The other three fronts were designed after I took charge. The work was executed under Mr. Walter's direction through Mr. E. Clark, who was his pupil and assistant in architecture.

Third. Mr. Walter also, on request of proper authority, made designs for other public buildings, viz:

A.—The Government Insane Asylum on the Eastern Branch. This, I think, at request of the Secretary of the Interior.

B.—Marine Barracks, subsequently erected by the Navy Department at Pensacola.

C.—The extension and completion of the General Post-Office Department building, south of the Patent Office. Three fronts, east, west, and north, have been built from his designs.

D.—At request of the Congressional Committees on Public Buildings, who freely called upon him for his artistic and experienced knowledge of architecture and building, he made plans, elevations, and designs for the extension and completion of the Treasury building, then consisting only of the long sandstone colonnade on Fifteenth street. I, myself, in the last hours of a session of Congress, carried the plans of Mr. Walter to the committee rooms, and they were signed by the chairmen of the committees in order to verify and identify them. Perhaps some other members of the committees signed them also—my memory fails on this point of detail. Appropriation was made for the Treasury building, and it was built on the designs of Mr. Walter.

E.—He made also at that session a design for a War Department building, to occupy the space since built on, but on a different design made years afterward by Mr. Mullet. The appropriation to begin the extension of the Treasury passed at that session; that for the War Department failed then to become a law. The design of Mr. Walter, however, must be in existence. It was approved and verified, if I

remember correctly, at the same time and by the same signatures as that for the Treasury.

F.—Mr. Walter also designed the new rooms for the Library of Congress, long and to this day occupied by this library. These, too, he built and completed. They were not under my jurisdiction or control.

G.—He also designed, and Congress by law adopted and approved his design for, an iron dome, which has been executed and which replaced a hemispherical wooden-framed dome, which had for many years crowned the old or center building of the Capitol.

All these designs of Mr. Walter were made, I believe, without compensation from the United States. All except the War Department design have been erected from his designs. They cost many millions of dollars, and are among the best architectural achievements of our country, and of our age. None of them was covered by Mr. Walter's contract as architect of the extension of the Capitol, and I believe that the Government he served so well owes him and his heirs a debt which ought to be paid.

I think that in his annual reports and in mine, and in the laws making appropriations for the public buildings, and in the records of the Interior, the Treasury, the War, and the Navy Departments, all the facts herein stated can be verified.

I remain, respectfully, your obedient servant,

M. C. MEIGS,
Quartermaster-General U. S. Army, retired, Brevet Major-General.

Hon. S. PASCO,
United States Senate.

The committee feel that the widow should not be deprived of the support which her husband in his life-time attempted to provide for her because of any neglect on his part, or on the part of the Government officials having charge of the matter to arrange their transactions in a proper business form. If his services had been properly remunerated he would have received a much larger amount than the aggregate of his salary. But the committee do not favor a reference to the Court of Claims; the facts are well established, and in the absence of a contract Congress can as well determine what is just and equitable as the courts; and under all the circumstances they recommend that a specified sum be given the claimant in full satisfaction of the claim. And in determining upon a just and equitable sum the committee have decided to recommend the same amount that has heretofore been recommended to the House of Representatives by the Committee on Claims of that body. This sum is twenty-five thousand dollars, and the bill should be amended by striking out all after the enacting clause, and substituting therefor a provision for the payment by the Secretary of the Treasury to the claimant of this sum of twenty-five thousand dollars in full of all claims and demands on account of the services rendered by the late Thomas U. Walter to the Government. And when thus amended, the Committee recommend that the bill do pass. The title of the bill should be amended so as to read, "For the relief of Amanda G. Walter, as executrix of Thomas U. Walter, deceased."

51st Congress, 1st Session. | SENATE. | Report No. 1479.

IN THE SENATE OF THE UNITED STATES.

July 10, 1890.—Ordered to be printed.

Mr. Hawley, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 4183.]

The Committee on Military Affairs, to whom was referred the bill (S. 4183) for the relief of William Mefford, have duly considered the same and submit the following report:

The bill directs the Secretary of War to remove the charge of desertion from the records of said soldier and to substitute therefor, "Honorably discharged September 1st, 1862, on account of broken arm and dislocated elbow, caused by fall from a horse."

Accompanying the bill there were referred to your committee the affidavit of the said Mefford, in words and figures as follows:

State of Missouri, *County of Cape Girardeau:*

On this 13th day of June, A. D. 1890, personally appeared before me, clerk of Cape Girardeau court of common pleas, within and for the county and State aforesaid, came William Mefford, aged forty-six years, and a resident of the city and county of Cape Girardeau and State of Missouri, who, being duly sworn according to law, makes the following declaration:

I am the identical William Mefford who was enrolled on the 16th day of July, 1862, in Company E, of the Seventh Regiment Kentucky Cavalry Volunteers, enlisted at Catawba, in Pendleton County, State of Kentucky, enlisted for three years or during the war, and served honorably as a soldier from July, 1862, to about February, 1863.

In the month of July, 1862, we were in camp at Lexington, Ky., and on the 30th of August, 1862, at Richmond, Ky., I was taken sick of bilious colic and was left sick at Richmond, Ky.; and on the 31st of August, 1862, was with other comrades, but not with my Company E, Seventh Kentucky Cavalry, and was in all the fighting at Big Hill, Ky., and thence back to Richmond, Ky., a distance of 25 miles; and on the retreat from Big Hill, Ky., to Richmond, Ky., my horse stumbled and fell, and in his fall I was thrown off about four feet and fell on my left arm, and broke my left arm and dislocated left elbow, caused from said fall, and I falling with my weight and the force of the fall on left arm caused the above injuries, and injured me as stated by dislocation of left elbow and left arm, injured on left back arm and left fore arm; the above injuries were incurred in the service and line of duty.

After incurring the above injuries I reported to Covington, Ky., being physically unable for cavalry service. I received a pass to go where I pleased in the city of Covington, Ky. I then went home to Greensburg, State Indiana, and was examined by a surgeon, who pronounced me unfit for military duty, and I was then advised to report to Indianapolis, State of Indiana, which I did. I reported and was placed in the Soldiers' Home at Indianapolis, and remained there about five months. This fact the records of the War Department ought to sustain.

I was there examined, the surgeon then chief examiner and pronounced unfit for military duty and received a discharge furlough, and went home to Greensburgh, State of Indiana, and I remained there, as I was unfit for duty.

I was then nineteen years of age, and my reasons for not returning to my command was by reason of my injuries to left arm as I then had no use of left arm and had no grip of left hand—and I make this statement under oath for the purpose of amending my military record, removing the charge of desertion which is falsely made, as the

records of the War Department ought to sustain, and my injuries was too severe for me to continue in the service, and I want my military record as a private of Company E, 7th Kentucky Cavalry, amended and be granted an honorable discharge from the above service, and this by special act of Congress. My post-office address is Cape Girardeau in the county of Cape Girardeau, State of Missouri, and I respectfully ask the above for my relief. I refer to the War Department for my full record.

WILLIAM MEFFORD.

Sworn to and subscribed before me this 13th day of June, A. D. 1890, and I hereby certify that the contents of the foregoing affidavit was carefully read and made known to the affiant before swearing, and all erasures and interlineations in writing were made before swearing, and I know the affiant—he is credible and respectable, and I have no interest in the prosecution of this claim.

[SEAL.] EDWARD H. ENGELMANN,
Clerk.

Mr. Cockrell, of your committee, referred the said affidavit to the War Department for information and report and received in reply thereto the following letter from Capt. F. C. Ainsworth, and the accompanying report:

WAR DEPARTMENT,
Washington City, June 20, 1890.

SIR: Referring to your request of the 16th instant, received in this Department on the 18th instant, for certain information relative to William Mefford, a former member of Company E, Seventh Kentucky Cavalry, I am directed by the Secretary of War to invite your attention to inclosed report in which is embodied, it is believed, the information desired by you.

The affidavit of Mr. Mefford forwarded by you is herewith returned.

Very respectfully,

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

Case of William Mefford, late of Company E, Seventh Kentucky Cavalry.

The official records show that *James W.* Mefford, aged 28 years, was enrolled July 25, 1862, in Company E, Seventh Kentucky Cavalry, to serve three years, was mustered in August 16, 1862, and deserted August 20 (or 30), 1862, at Richmond, Ky., the majority of the records giving the date as August 30, 1862, at which time the command was in action at Richmond, Ky. He next appears on December 20, 1862, when he was received at the Soldiers' Home in Indianapolis, Ind., and on December 30 following he left for his regiment. This he did not join, though it was not mustered out until July 10, 1865, nor did he report his whereabouts or the cause of his absence to the proper military authorities of the United States.

The following is a synopsis of the testimony heretofore submitted to the Department in connection with application for removal of charge of desertion, to wit:

On February 18, 1889, the soldier testified that on or about September 1, 1862, he was cut off from his command at the battle of Richmond, Ky., his arm having been broken on the retreat therefrom; that he reported at headquarters in Covington, Ky., was given a pass and went home to Greensborough, Indiana; that later he reported at Indianapolis, was there examined and placed in the Soldiers' Home, where he remained about five months; that he was again examined, received a discharge furlough and was sent home to remain until notified to return, a notice he never received.

John R. and Mary Mefford and Sue Bryant, in a joint affidavit, dated August 13, 1889, gave similar testimony.

(There is no record of furlough nor is there any evidence whatever of an injury at the time and place alleged).

On September 11, 1889, the Department held that "there does not appear to be any warrant of law to grant the desired relief in this case, and the application must, therefore, be denied."

In an affidavit dated June 13, 1890 (forwarded by the Hon. F. M. Cockrell, United States Senate), the soldier testified that on August 30, 1862, at Richmond, Ky, he was taken sick with bilious colic and was left sick at the above mentioned place; on August 31, 1862, he was with other comrades but was not with his company, though he was in all the fighting at Bill Hill and back to Richmond; that while on his way to the latter place his horse stumbled and fell, throwing the soldier about four feet and falling on his left arm, thereby breaking the arm and dislocating the left elbow,

an injury that was received in the line of duty; that, being unfit for cavalry service, he reported at Covington, Ky., where he received a pass to go where he pleased in the city of Covington; that he then went home where a physician pronounced him incapacitated for military duty and was advised to report at Indianapolis, which he did, remaining in the Soldiers' Home about five months; that while there he was examined by the surgeon, pronounced unfit for military duty, was given a discharge furlough, and went to his home in Greensburgh, where he remained unfit for duty by reason of said injuries.

No further action has been taken in the case subsequent to September 11, 1889.

Mr. Cockrell again applied to Captain Ainsworth for additional information, and received in reply the following letter and copies of affidavits filed in the War Department by said Mefford to secure the removal of the charge of desertion:

WAR DEPARTMENT,
Washington City, June 24, 1890.

SIR: Referring to your request of the 20th instant (received in this Department on the 23d instant) for certain information relative to James W. or William Mefford, a former member of Company E, Seventh Kentucky Cavalry, I am directed by the Secretary of War to inform you that an exhaustive search of records has failed to elicit any further information regarding this man than is contained in report from this Department furnished you on the 20th instant, except that the records of the chief medical officer at Indianapolis, Ind., show that he was examined on December 20, 1862 (result of examination not stated); and the records of Soldiers' Home in that city show him "arrived December 20, 1862; departed December 30, 1862; destination, regiment; remarks, awaiting transportation."

His name does not appear on records of Covington, Ky., in August or September, 1862, and there are no records of Greensburgh, Ind., on file.

A copy of the joint affidavit of John W. and Mary Mefford and Sue Bryant is herewith inclosed.

Very respectfully,

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. A

Hon. F. M. COCKRELL,
United States Senate.

GENERAL AFFIDAVIT.

In the matter of the claim to remove charge of desertion from Wm. Mefford, private Company E, Seventh Kentucky Cavalry.

On this 13th day of August, A. D. 1889, personally appeared before me, a notary public in and for said county, duly authorized to administer oaths, John R. Mefford, aged forty-five years, a resident of De Witt, in the County of De Witt and State of Illinois, whose post-office address is De Witt, Ill., and Mrs. Mary Mefford, aged sixty-five years, a resident of De Witt, in the County of De Witt and the State of Illinois, whose post-office address is De Witt, well known to me to be reputable and entitled to credit, and who, being duly sworn, declare in relation to aforesaid case as follows:

That we know William Mefford, and that he was a private in Company E, Seventh Kentucky Cavalry; that he was in the fighting 25 miles the other side of Richmond, Ky.; that on the retreat he got his arm broken; that he reported at Covington; received a pass, went home to Greensburgh, Ind., and, being a boy not able for duty, did not think it necessary to try to go to his command. and was advised to report at Indianapolis, Ind.; was held four or five months and examined again and sent home on a discharge furlough on account of disability.

We have known the same William Mefford for over thirty years; further declare that we have no interest in said case, and are not concerned in its prosecution.

Mrs. MARY MEFFORD.
JOHN R. MEFFORD.
Mrs. SOE BRYANT.

Official copy respectfully furnished for the information of Hon. F. M. Cockrell, United States Senate.

By order of the Secretary of War.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

WAR DEPARTMENT, RECORD AND PENSION DIVISION,
June 24, 1890.

It will be seen from a comparison of the affidavit of said William Mefford and the official records of the War Department, the Soldiers Home, and chief medical officer at Indianapolis, Ind., that there is quite a discrepancy between them. The soldier claims that he was only nineteen years of age in 1862 and 1863, while his muster-in roll shows he was twenty-eight years old at the date of enrollment, July 25, 1862. While claimant says he was in the Soldiers' Home at Indianapolis for five months and was then examined by the chief examining surgeon and pronounced unfit for military duty and received a discharge furlough and went home, the record of the chief medical officer shows that he was examined on December 20, 1862, and the records of the Soldiers' Home show that he arrived there on December 20, 1862, and departed December 30 1862; destination, regiment, awaiting transportation, which does not indicate at all that he was disabled, but on the contrary, that he was expected to return to his regiment and was only delaying there for transportation.

The evidence submitted to the War Department for the removal of the charge of desertion consists of an affidavit made by Mrs. Mary Mefford, John R. Mefford, and Mrs. Soe Bryant, which was evidently on a printed form, and this affidavit, when closely examined, shows clearly that it was made purely from hearsay. They state facts which could not have been personally known and seen by them unless they had been with him all the time, and there is no statement or indication in the face of the affidavit that they were either members of this company or were with him at the time he received his injury, or at any of the times referred to, in regard to receiving a pass and remaining four or five months at Indianapolis and receiving a discharge furlough, and therefore this affidavit, signed by all these parties, can not be considered either as competent or relevant testimony.

This soldier was enrolled July 25, 1862, and within about a month left his command, disabled, as he claims, and never seems to have reported to his company officer or made any effort to advise his company officer where he was or what was his condition.

There seems to be, therefore, no sufficient grounds to justify the granting of the relief indicated in this bill, and your committee therefore report the bill back to the Senate with the recommendation that it be indefinitely postponed, and the relief prayed for be not granted.

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51st CONGRESS, 1st Session. } SENATE. { REPORT No. 1480.

IN THE SENATE OF THE UNITED STATES.

JULY 10, 1890.—Ordered to be printed.

Mr. McMILLAN, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany S. 3441.]

Your committee, after having under consideration the bill (S. 3441) entitled "A bill supplementary to an act entitled 'An act to authorize the construction of the Baltimore and Potomac Railroad in the District of Columbia,'" report:

The object of the bill under consideration is, first, to legalize and confirm the construction, maintenance, and use for railway purposes of certain sidings or turnouts already constructed by the Baltimore and Potomac Railroad Company and by private parties, under authority granted to them and to that company by the Board of District Commissioners; and, secondly, to authorize the Commissioners of the District of Columbia, whenever they shall consider it a public benefit, to grant to the Baltimore and Potomac Railroad Company permission to lay, maintain, and use for its own purposes, or for private manufacturing, commercial, or other business purposes, side-tracks and siding from the main lines of that company into any real estate in certain specified squares abutting on the streets or avenues occupied by or within easy distance of such lines.

The bill does not affect in any way the question of the present passenger station maintained by the Baltimore and Potomac Railroad Company, nor does it relate to the occupation of the mall. The question simply is, Shall the company be confirmed in possession of its present facilities for the handling of the freight business of Washington; and shall the company and private individuals be given the right to acquire access to other property in order to meet the demands of a business which has already largely outgrown present facilities?

The many hearings and the personal examinations of the localities which have been given in connection with this bill have made it necessary for your committee to go into the whole question of the present traffic facilities of the Baltimore and Potomac Railroad in the city of Washington.

It should be understood that a railroad best fulfills its purpose when it is of the most service to the public. Unless a road can acquire proper facilities for rendering these services, its usefulness to the public must be largely crippled. To cripple a railroad is of course a harm to the stockholders of the road, but it is an even greater injury to the mer-

chants and the people of the city in which such proper facilities are denied. This latter proposition is made very evident in the matter now under consideration.

The Baltimore and Potomac Railroad Company, by the act of March 18, 1869, was authorized to enter the city of Washington over one of two routes. The company chose the route it now uses, which authorizes tracks from the Eastern Branch of the Potomac to the intersection of South C and West Ninth streets. By act of June 21, 1870, the company was authorized to extend their lateral branch by way of Maryland avenue, "conforming to its grade," to the viaduct over the Potomac River known as Long Bridge.

Before the coming of the Baltimore and Potomac road, access to Washington was by way of the Baltimore and Ohio; and the city suffered all the evils which follow from the absence of competition. It was with feelings of more than ordinary satisfaction that the advent of the Pennsylvania road was welcomed; because it put Washington in connection with the enormous freight and passenger territory to which the Pennsylvania system is tributary. As is usual in such cases, the first thought was for passenger accommodations; and by the act of March 3, 1871, the road was authorized to throw over its tracks crossing the reservation on Virginia Avenue, between Sixth and Seventh streets west, a passenger depot. A year later (May 21, 1872), the present site of the passenger station was set apart by Congress, and it was provided that the ground so used should pay taxes for the support of the public schools.

If the merchants and manufacturers of Washington are to be benefited by the Baltimore and Potomac Railroad there must be freight depots and (in those cases where heavy products are to be received or shipped) the use of private yards. Impelled by these necessities the company sought and obtained from the District Commissioners authority to lay side tracks into their round-house and freight-yards. Private parties also obtained like permission. For example, under date of December 13, 1881, Capt. F. V. Green, Engineer Commissioner of the District of Columbia, issued a permit to John Miller to run a track from the Baltimore and Potomac Railroad into his yard on Virginia avenue, near Four-and-a-half street, at his own expense and subject to certain conditions.

Under these permits the sidings mentioned in the bill under consideration were laid as follows:

Into square 737, by the Barber & Ross lumber-yard.
Into square 739, by the United Oil Company.
Across square 695, tracks for the storage (but not unloading) of cars, at a rental of $3,500 a year to be paid to the Commissioners of the District of Columbia.
Into square northwest of square 695, for the use of the company.
Into square west of square 695, for a round-house for the use of the company.
Into square north of square 697, by John Miller, for use as a coal-yard.
Into square east of square 642, by Mr. Shryock, used as a wholesale lumber-yard.
Into square north of square 642, by Mr. Marlow, used as a coal and wood yard.
Into square 641, by the Anheuser-Busch Brewing Company.
Into square 536, by the Washington Flour and Feed Company.
Into square 493, used as a freight-house by the Baltimore and Potomac.
Into square south of square 463, by the Adams' Express Company.
Into square 464, by the Pabst Brewing Company and S. A. Palmer.
Into square 386, which was obtained by the Baltimore and Potomac from the Alexandria and Washington Railroad Company and by purchase and now used for southern business.
Into square 267, purchased for handling coal to be delivered in the city of Washington.
Into square south of square 267, used as a freight-yard by the company.

Under the decision of the Federal Supreme Court (Commissioners of the District of Columbia *v.* The Baltimore and Potomac Railroad Company) rendered at the October term, 1884, it is laid down that—

when this company wishes to depart in any direction from the line of its present track, as prescribed for it by the acts of Congress, it must obtain permission to do so from that body, and that Congress and not the court nor the company is the judge of the expediency or the necessity of such change, and of the manner in which the public good requires it to be made and the safeguards which should accompany it.

This decision was rendered in a case wherein the company sought to make a siding to reach land which it had purchased for freight purposes near its tracks in the vicinity of Long Bridge.

Within the past few months an indictment has been brought against the Commissioners and against the railroad company for maintaining sidings into the freight-yards and the round-house and the sidings to business places. Should the result of this indictment be a judgment that the nuisance shall be abated, then Washington will be invited to view the spectacle of a great railroad powerless to transact the business to do which it was given access to the city.

The authority by which the Baltimore and Potomac now maintains its sidings having come from the District Commissioners alone, it is clear in view of the above-quoted decision that an act of Congress is essential to legalize the turn-outs which are necessary alike for the support of the road and for the convenience of the business public. This authority is now sought in the bill under consideration. The question therefore is shall the existing sidings be legalized? After careful consideration of the whole matter your committee is strongly of the opinion that the service which the company owes to the public requires that the sidings be legalized.

In reaching this conclusion the committee took into consideration, first, the character of the portion of the city in which the sidings exist. The ideas of the committee can not better be expressed than by quoting from a letter of the District Commissioners addressed to the Hon. John J. Ingalls, chairman of the Senate Committee District of Columbia, and dated November 15, 1887. The Commissioners say:

It may be assumed at once that if railway communication through Washington is to be maintained at all the continuation of the transit through South Washington must be authorized upon such lines and by such methods of construction as shall be found most advantageous to the public interest.

The relatively low and uniform elevation of South Washington, its character as a recipient to a considerable extent of the accumulation of the sewage from the higher levels, and in particular its proximity to the Washington navy-yard channels, which constitute the harbor frontage, unmistakably indicate that it must as a rule be devoted to such industrial purposes as may be found needful and expedient, and its prosperity can only enhance with the development of trade and traffic.

For these reasons the disadvantages to South Washington due to the presence of the Baltimore and Potomac * * * are outweighed by considerations not only of general but also of local advantage; and if in individual cases damage has been wrought and personal loss and inconvenience imposed, it is simply the result, in great part, of natural laws and of the necessities of traffic and commerce, in the presence of which individual and separate interests must yield to the public need and welfare.

Having settled in their own minds the necessity of allowing property-owners of South Washington to avail themselves of the railroad facilities within their easy reach, and also of allowing the railroad to obtain in the section already occupied by the road the facilities for handling their business, your committee next examined into the existing provisions for handling freight. These facilities were found to be grossly inadequate to the imperative needs of a city of the size and character of Washington. So great is this inadequacy that it causes frequent and just complaint on the part of the merchants of Washington; and it

also acts as a tax on the community, particularly on the consumers of wood, coal, lumber, etc. At the same time, the public crossing the railroad tracks are incommoded and inconvenienced by the unloading of freight in the public streets, which inconvenience must continue until access shall be granted to yards and freight-houses to be built on property which individuals and the railroad company stand ready to purchase whenever Congress shall see fit to grant entrance to it.

From a statement made to your committee by Superintendent Carter, of the Baltimore and Potomac Railroad, it appears that there are in Washington but two private coal yards and two private lumber yards having tracks and proper facilities in them. As a consequence the bulk of the coal and lumber business is done on surface tracks set apart for bulk freight, to the delay of other freight business. At one time there were 90 cars of lumber on hand for Washington delivery. On an average cars wait four days before being unloaded, but this time is not infrequently extended to three or four weeks. It is in view of these facts that Congress is now asked to legalize these two existing sidings, and to enact a law under which private parties may obtain facilities for bringing cars into yards so as to do away with the present abuse of unloading cars in the streets.

The Baltimore and Potomac now handles annually about 33,000 tons of anthracite coal and but 15 cars a day can be accommodated in the two private yards. Neither the company itself nor private parties can extend these present facilities, so that the consumers are thus shut off from the full effects of the competition which could be brought about by full facilities on the part of two railroads and the water communication.

From October 14 to November 30, 1889, there were 1,265 cars consigned to Washington held back at various points because of lack of facilities in this city, to the great injury of business. The average number of freight cars handled each working day is 440, of which number about one-third are for Washington business and the other two-thirds for through traffic. Taking four days as the actual average time to unload a car, it will be seen that while the daily requirements are for 600 cars there are facilities for handling only 308 cars.

While entirely convinced that the best interests of Washington would be subserved by allowing individuals and the Baltimore and Potomac to increase the facilities for handling cars in yards rather than in the streets, yet your committee deem it best that such yards and sidings shall be confined within certain limits both on the east and on the west, so that the space within which the heavy business of the city shall be transacted may be so located as to interfere as little as possible with the passage of traffic from the river front to the other portions of the city. To this end your committee has suggested amendments to provide that, in the discretion of the Commissioners, side tracks and sidings from the main line or lines shall be limited to the sections east of Sixth street and west of Twelfth street southwest, and to a certain small territory north of the Eastern Branch of the Potomac River.

The practical effect of these restrictions on the west is to confine private persons to acquiring squares 299, 298, 268, and part of 267. This would give free access to Long Bridge by way of Fourteenth street. Twelfth and Seventh streets are thus maintained as the two great avenues by which vehicles can get to South Washington and the river front, with the least possible inconvenience. Should Congress in the future decide to require the Baltimore and Potomac to relinquish Sixth street, that thoroughfare also will be added to the streets giving easy access between the north and south sides of the city. The region on

the east has been considered the portion of the city that will suffer least by allowing its use for freight facilities; and it is considered certain that when once this district is set apart for commercial purposes the property so affected will largely increase in value.

The railroad company is restricted in its holdings of property to the region bounded by its tracks on the east and north, by Deleware avenue on the west, by L street on the south. Again to the squares abutting on the line of the road on Maryland and Virginia avenues east of Sixth street and west of Twelfth street. Again to the squares 1,047, 1,066, and 1,079, bounded on the west by Thirteenth street southeast, on the north by K street southeast, and on the south by the land owned by the company and occupied by its main tracks.

When amended as suggested above your committee recommend that the bill pass.

APPENDIX.

Incidentally your committee has been called on to examine the question of the occupation of certain reservations by the Baltimore and Potomac Railroad.

The main line of the road runs between reservations numbered 317 and 318, formed from the old canal bed at the intersection of I, K, and Second streets, southeast. Reservation 317 is used by the District Commissioners for the storage of paving materials.

Reservations 311–6, extending from South Capitol street to Second street east, also formed by the old canal bed, are crossed by the main line and other tracks, thirteen in all. The company pays to the Commissioners a rental of $3,500 a year for the privilege of storing (not unloading) cars on this reservation.

Reservation 174, between H and I, New Jersey avenue, Canal, and First streets east, is crossed by the tracks running to square 695.

Reservation 241, at the intersection of Canal, H, and One-half streets east, is crossed by the tracks running to square northwest, 695.

Reservation 112, at the intersection of South Capitol, Virginia avenue, and G street southwest, is crossed by the tracks of the main line.

Reservation 101, the rectangle between Seventh and Ninth streets northwest, is crossed by the main line running to Long Bridge. This is the only important reservation occupied by the company, and its use is clearly authorized by the act of March 25, 1870, setting forth the route of the main line; which act authorizes the main line to find a terminus at the intersection of south C street and west Ninth street, such intersection being in the middle of the west line of Reservation 101. That the company had rights through this reservation also seems clear from the language of the statute (act of March 3, 1871,) authorizing the company "to erect over their tracks on Virginia avenue, between west Sixth street and west Seventh street a passenger depot," and fixing the limits of the building to correspond with the lines of the reservation. Again, when the act of May 21, 1872, authorized the present station, the authority to erect a depot on Reservation 101 was revoked, but nothing whatever was said about the tracks.

Reservation 178, between Ninth and Tenth streets, at the intersection of Maryland avenue and L street south, is occupied by tracks leading to the freight-house.

In general your committee has found that where the Baltimore and Potomac crosses reservations with its main lines it does so unavoidably, and by virtue of acts of Congress laying out the route of the road. In the three other cases where the tracks cross reservations made between the parking and the building lines of intersecting streets, it occupies land of no value to others than the owner of the abutting property, which owner is in each case the company itself.

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51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1481.

IN THE SENATE OF THE UNITED STATES.

JULY 10, 1890.—Ordered to be printed.

Mr. TELLER, from the Committee on Privileges and Elections, submitted the following

REPORT:

[To accompany Senate resolution in the claim of George Benj. Johnston, administrator of the estate of the Hon. John W. Johnston, ex United States Senator, and the Hon. John F. Lewis, ex United States Senator.]

Your committee finds that the Senators and Representatives from Virginia were seated in the Senate and House on the 27th of January, 1870, and that the Representatives were paid from the 4th of March, 1869, and that the Senators were paid from the 27th of January, 1870. This was manifestly unjust.

The Hons. D. S. Patterson and John S. Fowler, United States Senators of Tennessee, were seated July 27, 1866, and were paid from the 4th of March, 1865. (See official letters of Secretary Windom of late date, certifying to these facts, on file with the committee.)

The Representative from Tennessee, Hon. W. B. Stokes, and others, were seated July 28, 1866, and paid from March 4, 1865, on a report of the Hon. Henry L. Dawes, now Senator Dawes. Sergeant-at-Arms asked for instructions as to when their pay should commence. The House decided without discussion that their pay should begin with the term. The Hon. Mr. Stevens and the Hon. Mr. Dawes said there could be no doubt of the fact that members' pay should commence with the term.

Your committee find many precedents both in the Senate and House sustaining this fact.

We recommend the passage of the accompanying resolution as a substitute for Senate resolution.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1482.

IN THE SENATE OF THE UNITED STATES.

JULY 10, 1890.—Ordered to be printed.

Mr. HAWLEY, from the Committee on Printing, submitted the following

REPORT:

[To accompany R. Res. 150, joint resolution to print 25,000 copies of the eulogies upon Samuel Sullivan Cox, a Representative from New York.]

The Committee on Printing, to whom was referred the above joint resolution, having considered the same, report it back with the recommendation that it do pass. The cost of the printing and binding will be $10,375.

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1483.

IN THE SENATE OF THE UNITED STATES.

JULY 11, 1890.—Ordered to be printed.

Mr. BARBOUR, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany S. 4021.]

The Committee on the District of Columbia, to whom was referred Senate bill 4021, entitled "An act to authorize the Commissioners of the District of Columbia to annul and cancel the subdivision of part of square 112, known as 'Cooke Park,'" have had the same under consideration and report it to the Senate, with the recommendation that it pass.

The committee, in making this report, are controlled by the following reasons:

First. It is impossible to improve the property under the present subdivision.

Second. The proposition of the parties owning the ground is to make the streets contemplated 60 to 65 feet wide, in conformity with the streets of the city, which is much wider than the adjacent streets.

Third. The street that is closed contains about 56,000 feet of ground, while the streets and alleys donated amount to over 86,000 feet.

Fourth. This property has long remained dormant and unproductive. Under the plan mentioned in the bill it will be opened up as an inviting tract of land for resident purposes.

In view of these facts the committee see no reason why the bill should not promptly be passed by the Senate, Congress having sole jurisdiction in the matter, with the following amendment:

Provided: All the owners whose property in said subdivision abuts on the avenue shown thereon shall petition therefor.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1484.

IN THE SENATE OF THE UNITED STATES.

JULY 12, 1890.—Ordered to be printed.

Mr. PLATT, from the Committee on Patents, submitted the following

REPORT:

[To accompany S. 4141.]

The Committee on Patents, to whom was referred the bill (S. 4141) referring to the Court of Claims the claim of William E. Woodbridge for compensation for the use by the United States of his invention relating to projectiles, for which letters patent were ordered to issue to him March 25, 1852, having considered the same and accompanying papers, submit the following report:

The committee fully concur in the report of the House Committee on War Claims, of the present Congress (Report No. 403), and adopt the same, which is appended hereto as a part of this report. Said report is as follows:

[House report No. 403, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2390) referring to the Court of Claims the claim of William E. Woodbridge for compensation for the use by the United States of his invention relating to projectiles, for which letters patent were ordered to issue to him March 25, 1852, having considered the same and accompanying papers, respectfully report as follows:

The records before the committee show that the invention of Dr. Woodbridge to which this bill relates was made known by him to the Ordnance Department in the year 1850, and that in the fall of that year a series of experiments with his projectiles was conducted at Fort Monroe, a certified copy of the record of these experiments being furnished by the War Department. Dr. Woodbridge also communicated to the public a knowledge of his invention by means of a descriptive pamphlet, fully illustrated, published in 1852, giving an account of the firing at Fort Monroe, with a statement of the advantages to be derived from the use of rifle projectiles for cannon, now universally admitted, but then rarely conceded or recognized as practicable.

In the mean time he had applied for a patent for his invention, and a patent was ordered to issue on the 25th of March, 1852. In accordance with the practice then prevailing when it was desired by a patentee to take out a foreign patent, the applicant requested that the patent might be filed in the secret archives of the office, designating one year as the period for which it should be so retained, if a designation of time was necessary. The Commissioner informed him, in reply, that the papers were so filed and that the patent would issue at such time as he (the applicant) might direct. When, however, Dr. Woodbridge called for the issue of his patent in 1861, it it was refused on the ground that his delay had deprived him of his right and that the patent could not be legally issued.

That the invention originated with him has never been disputed. Without discussing the correctness of the position taken by the office, it is evident that error, if it existed, arose from the original action of the office itself, or from its inaction in not issuing the patent at the expiration of the period designated by the inventor. Woodbridge has made every payment and performed every duty imposed upon him by the law. Only by the action of the office could the transaction have been completed. This miscarriage of justice in the name of the law should not be placed in the account against the inventor.

Indeed, so far as his relations with the Government are concerned, the question of the issue of a patent should be considered as unimportant. The value of the services rendered is the same in either case. Certainly the Government could have gained nothing by the issue of the patent, which might have been restrictive, but could not have made the use of the invention more free.

Nothing seems to have been wanting on the part of the inventor to make the invention available to the Government. He early conveyed to the proper Department a practical knowledge of his invention, and made strenuous efforts to introduce it into service, seeking also Congressional aid to extend its application to guns of the largest caliber. His subsequently published description and account of the firing at Fort Monroe was widely circulated among members of Congress, officers of the Army and Navy, and others, and was placed in various libraries. Though the invention had appeared too early to be at once appreciated, he had made it available for all subsequent time.

Modifications of Woodbridge's projectile might be, and doubtless were, patented by others; but it is obvious that only the *modification* could be the subject of a valid patent, and that it could not in any way restrict the use of the invention in any other form. In no other way could the Government have been more fully protected against false or invalid claims for its use than by the recited acts of the inventor.

The justice of his claim is supported, as will be seen from the appended letters, by the honorable Secretary of War and by the Chief of Ordnance.

It is evident to the committee that Dr. Woodbridge's invention was largely used by the Government, and they believe that both justice and sound policy require that he should be duly compensated for its use.

The committee concur in House Report No. 44, Fiftieth Congress, first session, hereto annexed, and unanimously report the accompanying amended bill with the recommendation that it do pass, and that the original bill be tabled.

Upon these facts the committee believe that Woodbridge is entitled to relief. Therefore Senate bill No. 4141 is reported back with recommendation that it pass.

House Report No. 44, Fiftieth Congress, first session.

The Committee on War Claims, to whom was referred the bill (H. R. 27) vesting the Court of Claims of the United States with jurisdiction to determine the rights of William E. Woodbridge to certain letters patent for a metallic sabot, and to render judgment in payment for the use of the same by the Government during the war of 1861, have duly considered the same and accompanying papers, and recommend that it pass.

The facts upon which this recommendation is based are so fully set forth in House Report No. 4168, Forty-ninth Congress, second session, that your committee ask to make the same (with slight alterations) a part of their report, which is as follows:

[House Report No. 4168, Forty-ninth Congress, second session.]

The Committee on Claims, to whom was referred the bill (H. R. 221) for the relief of William E. Woodbridge, having considered the same and accompanying papers, submit the following report:

The committee find the facts to be as stated in House Report No. 1778, Forty-eighth Congress, first session, which said report is hereto annexed and made part of this report, and is as follows:

"The records before the committee show that on February 9, 1852, William E. Woodbridge made oath that he believed himself to be the first inventor of an improvement in rifled ordnance, and believed that the same was never before known or used, and on the 11th of the same month petitioned the Commissioner of Patents that letters patent of the United States be granted to him therefor, he having paid $30 into the Treasury and complied with all other conditions required by the Government.

"Woodbridge's invention consisted in applying to a projectile to be fired from a rifled cannon a ring or sabot of soft metal for the purpose of giving to the projectile a rotary motion.

"The iron projectile is made in ovoid form, and the rear section, from a point near the center to a point near the rear end, is surrounded by a soft metal collar, cylindrical on its outer surface, but its inner surface fitting closely to the iron projectile.

"The operation is thus described in the specification:

"'A suitable charge of powder is to be introduced into the gun, and the ball and rifle-ring placed in the position represented in Fig. 1, the rear of the ball being in contact with the charge of powder. The surface of the rifle-ring exposed to the action of the gases formed by the inflammation of the powder being much greater in proportion to its inertia than that of the ball, the ring is driven forcibly forward upon the ball, so as to embrace it tightly and thus impart the rifle motion which itself has received from the grooves of the gun; and at the same time it is stretched to fill the bore of the gun completely, thus destroying the windage, and causing the ball to advance strictly in the line of the axis of the bore.'

"The application was filed February 11, 1852, and a patent was allowed and ordered to be issued on the 25th of March following. Two days previously to the allowance of a patent, Woodbridge wrote to the Commissioner of Patents requesting that upon the issue or order to issue of a patent it might be filed in the secret archives of the office, in order that his ability to take out a patent in a foreign country might not be affected by the publication of the invention. To this letter the office replied on the 15th of April, 1852, informing Woodbridge that a patent had been ordered to issue on his application, and that, in accordance with his request, the papers had been filed among the secret archives of the office *subject to his directions as to the time of issuing the same.* He had preformed every requirement of the law, and no further payment was necessary to obtain his letters patent duly authenticated.

"Woodbridge had not only at this time taken means to secure his invention by patent, but brought his invention to the knowledge of the proper Department of the Government, and conducted a series of experiments with it at Fortress Monroe, of which detailed reports have been furnished the committee by the War Department.

"It also appears from the records that subsequent to taking steps for securing a patent he applied for the assistance of Congress 'with the desire that the value of the plan proposed might be fully tested by guns of heavy caliber, and compared with the unrifled guns then in use in the various points affecting its utility in the different branches of service.' It would seem, however, that the invention had appeared too early to receive appreciation, and his applications to Congress and the War Department were unsuccessful.

"Woodbridge, relying on the action and statement of Commissioner Eubank, above recited, did not call for the issue of his patent until December 31, 1861, when he addressed a letter to the Commissioner of Patents, calling attention to the case, requesting leave to amend the form of his claims if permissible, and, if not, the immediate issue of the patent without amendment. During the interim a new Commissioner had been appointed, and changes in the rules adopted for the administration of business.

"In answer to Woodbridge's last letter, the Commissioner replied that the length of time he had allowed his invention to slumber was a bar to the grant of a patent, and referred to the 34th section of the printed rules, which prescribed that—

"'No application upon which a patent has been ordered to issue shall be retained in the secret archives more than six months from the day on which the patent was ordered to issue.'

"On receipt of this decision Mr. Woodbridge addressed the Commissioner as follows:

"'A letter from the Commissioner dated April 15, 1852, says, referring to my application: "A patent was ordered to issue thereon," and "the papers were filed in the secret archives of the office, subject to your directions as to the time of issuing the same," from which it appears to be the deliberate conclusion of the Commissioner that I should be permitted to receive my patent at such indefinite time thereafter as I might call for it.

"'If, therefore, it be granted that I have committed an error in leaving my patent so long uncalled for, I have certainly been led into it by the action of the office itself, and if the results should entail inconvenience on any one, the responsibility, it appears to me, must rest on the office rather than on me. The words, "at your own risk," used by the Commissioner, can not have been intended to cover any dereliction of duty on his part, nor, were it possible to suppose such intention, would they have such effect any more than in case of a person who should receive a piece of property into his house "at the owner's risk," and then become accessary to its theft or destruction.

* * * * * * *

"'I must object to any disturbance of the decision of Commissioner Eubank, as announced in his letter of April 15, 1852, such action being contrary to the rule of the office, which declares that "a *decision deliberately made and approved by one Commissioner will not be disturbed by his successor.*" (See sec. 38 of Rules of Patent Office.) * * *

"'Judge Dunlop, in the cases of Larrowes and Simpson's appeals, to which I respectfully refer if there should be any doubt as to the obligation of the rule, clearly expresses the opinion that the Commissioner has *not* the right to reverse the decision of his predecessor.'

"To establish the date when section 34 of the printed rules went into operation, the committee, under date of April 29, 1884, asked the Department of the Interior for the information, to which the Department replied as follows:

"DEPARTMENT OF THE INTERIOR,
"*Washington, May* 3, 1884.

"SIR: Referring to your letter of the 20th ultimo, requesting certain information in connection with House bill 2859, for the relief of William E. Woodbridge, you are informed that the Commissioner of Patents, to whom the matter has been referred,

reports that Rule 34 of the 'Rules of Practice of the Patent Office' went into effect in 1854, but that the exact date can not be more accurately fixed.

"A copy of your letter is inclosed at the request of General McBride.

"Very respectfully,

"H. M. TELLER,
"*Secretary.*

"Hon. L. E. ATKINSON,
"*Chairman Subcommittee of Patents, House of Representatives.*"

The Secretary's letter shows that Rule 34 of the "Rules of Practice of the Patent Office" went into force in 1854. Said rule certainly had no application to Woodbridge on the 15th of April, 1852, when Commissioner Ewbank informed Woodbridge "that a patent had been ordered to issue on his application, and that, in accordance with his request, the papers had been filed among the secret archives of the office, *subject to his directions as to the time of issuing the same.*"

The course of Commissioner Ewbank's successor in depriving Woodbridge of legal right and title fully conceded March 25, 1852, by setting up Rule 34 as a bar to the grant of his patent, was retroactive in its nature, and unjustly deprived Woodbridge of the rights which he had obtained at a date prior to the existence of said rule. But whether the error originated with Commissioner Ewbank or his successor, the unauthorized proceedings should not operate to vitiate his claim for a reasonable compensation for the use made by the United States Government of his invention.

The justice of the claim is supported, as will be seen from the appended letters, by the honorable Secretary of War and by the Chief of Ordnance.

That the invention originated with William E. Woodbridge is undisputed, and it is evident that he very early brought it to the knowledge of the Ordnance Department, and made it available to the Government. After the action taken in the Patent Office, and the published description issued by the inventor, no valid claim could be made by any other person for its use. To Woodbridge alone is the Government indebted for this invention.

The committee are unanimously of opinion that William E. Woodbridge is entitled to relief, and therefore report the accompanying bill with recommendation that it pass.

APPENDIX.

WAR DEPARTMENT,
Washington City, February 2, 1884.

SIR: I have the honor to acknowledge the receipt of your communication of the 21st ultimo, inclosing H. R. 2859, being for compensation to William E. Woodbridge for the use of his invention relating to projectiles for rifled cannon and asking the views of this Department thereon.

In reply I beg to advise you that your letter, with its inclosure, was duly referred to the Chief of Ordnance, and I inclose herewith a copy of his report, of January 31, 1884, together with copies of all papers on file in his office relative to the trial of the Woodbridge projectile at Fort Monroe in 1850, and a report on the same subject by Major Mordecai, of the Ordnance Department. This report, with its inclosures, it is believed, covers all the information at the disposal of the Department upon the subject, and the views of the Chief of Ordnance as expressed in his said report are concurred in by me.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. ROBERT B. VANCE,
Chairman Committee on Patents, House of Representatives.

ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, D. C., January 31, 1884.

SIR: I have the honor to return letter from Hon. R. B. Vance, chairman House Committee on Patents, requesting the views of the Hon. Secretary of War on the inclosed bill (H. R. 2859) "for the relief of William E. Woodbridge," who claims compensation for the use of his invention relating to projectiles for rifled cannon, and to report.

Inclosed please find copies of all the papers on the files of this office, being reports from Colonel Huger, Ordnance Department, of the trial of the Woodbridge projectile at Fort Monroe in 1850, and a report on the same subject from Major Mordecai, Ord-

nance Department. It seems plain from these papers that the invention was a novel to these officers, both highly distinguished ordnance officers of our Army and w acquainted with all inventions and improvements relating to gunnery.

In a pamphlet printed by Dr. William E. Woodbridge in 1852, entitled "A plan f increasing the efficiency of cannon by giving the rifle motion to cannon projectile he says:

"The invention, which it is the design of this paper to notice, consists in the co struction and application of a ring or sabot of extensible metal to be applied to t rear of a projectile, and to be fired from a rifle-grooved gun."

And again he says, describing the sabot:

"Its rear end is grooved in order that the thinner portions may act *valvularly* prevent the escape of the gasses between it and the sides of the bore and projectil

The object as stated, and the groove to act valvularly, would seem to embody t principles involved in most of the projectiles used since 1852, and known as the e panding. There can be no doubt that Dr. Woodbridge was first, or among the fir in this field of invention, and the passage of the bill for his relief is strongly reco mended.

Very respectfully, your obedient servant,

S. V. BENÉT,
Brigadier-General, Chief of Ordnance

The Hon. SECRETARY OF WAR.

PROPERTY IN INVENTION.

The Supreme Court of the United States, in the case of Campbell *v.* James, U. Postmaster, decided January 9, 1882, settle the law most conclusively between United States and its citizens on this subject. The court say:

"That the Government of the United States, when it grants letters patent for an invention or discovery in the arts, confers upon the patentee an exclusive prope in the patented invention, which cannot be appropriated or used by the Governm itself without *just compensation* any more than it can appropriate or use without co pensation land which has been patented to a private purchaser, we have no dou The Constitution gives to Congress power 'to promote the progress of science a useful arts by securing for limited times to authors and inventors the exclusive ri to their respective writings and discoveries,' which could not be effected if the G ernment had a reserved right to publish such writings or to use such inventi without the consent of the owner. Many inventions relate to subjects which only be properly used by the Government, such as explosive shells, rams, and s marine batteries, to be attached to armed vessels. If it could use such invent without compensation, the inventors could get no return at all for their discove and experiments. It has been the general practice when inventions have been m which are desirable for Government use either for the Government to purchase th from the inventors and use them as secrets of the proper department, or, if a pat is granted, to pay the patentee a *fair compensation* for their use. The United St has no such prerogative as that which is claimed by the sovereigns of England, which it can reserve to itself, either expressly or by implication, a superior domin and use in that which it grants by letters patent to those who entitle themselve such grants.

"The Government of the United States, as well as the citizens, *is subject to the C stitution;* and when it grants a patent the grantee is entitled to it as a matter of ri and does not receive it, as was originally supposed to be the case in England, matter of grace and favor."

[*Pamphlet referred to by the Chief of Ordnance in his letter to the Secretary of War, d January* 31, 1884.]

A PLAN FOR INCREASING THE EFFICIENCY OF CANNON BY GIVING THE RIFLE MOT TO CANNON PROJECTILES, BY WILLIAM E. WOODBRIDGE, 1852.

The effects of artillery are so far relied upon as a means of success in military op tions that any improvement in cannon or their ammunition is a matter of very siderable importance.

The improvements in this department during the last fifty years have been suc greatly to enhance the efficiency of artillery, and are chiefly the result of exte experiments in Europe and this country, which have done much to remove the pirical notions formerly prevalent among artillerists, and to establish principles w will ever form a part of scientific gunnery. The attention, however, of scientific *has been mainly* devoted to the improvement of the plans already in use, while t

who have sought to add to the efficiency of fire-arms by invention have too generally neglected sufficiently to consider the principles involved, or the applicability of their machines for use in the circumstances for which they are intended.

The advantage of giving to a ball a motion of rotation about its axis corresponding with the axis of the bore of the gun, or, as it is commonly called, the rifle motion, has long been known and used in small-arms; and the rifle, though unused in military service until adopted by the Americans in the Revolutionary war, has now extended its use to nearly every civilized nation.

The idea of giving the rifle motion to cannon projectiles seems to have been entertained as early as the year 1774, and though many trials have been made since that time, they have hitherto (unless we except those mentioned herein) been useful rather in pointing out the true difficulties to be overcome, and in exhausting the fanciful expedients which have been proposed, than in furnishing any really feasible plan.

The design of the earlier experimenters seems to have been confined to the correction of the deviations produced by the resistance of the atmosphere and the irregular motions of rotation usually acquired by cannon balls within the gun; but the fact, long since well ascertained in relation to small arms, that an elongated ball, if projected with the rifle motion, might be made to retain the same end foremost during its flight encouraged the idea that the same might be the result in relation to cannon balls, and has given increased importance to the attainment of a practicable plan for giving them the rifle motion. It would necessarily allow the use of balls of a form much less resisted by the air than spherical balls of the same weight, and would enable us to explode shells by percussion against the object at which they are fired.

The invention which it is the design of this paper to notice, consists in the construction and application of a ring or sabot of extensible metal to be applied to the rear of a projectile, and to be fired from a rifle-grooved gun.

In the accompanying drawings, Fig. 1* represents the section of a portion of the cannon through its axis, with the projectile and ring or sabot in position, A being the cannon, B the ball, and *c* the sabot.

The same view of the projectile and sabot is given in Figs. 3 and 4. Fig. 5 is an end view of the sabot. Fig. 2 is a transverse section of the cannon, showing the form and position of the grooves, (*c c*), which should be equidistant. The dotted lines *c c*, Fig. 1, also show the depth of the grooves.

The projectile, which is of cast iron, is ovoid in form, pointed at the forward end. The sabot is a ring of metal softer than the projectile or cannon, and capable of extension without rupture, whose exterior surface has the form of the bore, but which is sufficiently smaller than the bore to enter the gun freely without extraordinary cleaning; and the innner surface of which fits the surface of the projectile in the rear of its greatest diameter. Its rear end is grooved, as shown in Fig. 4, in order that the thinner portions may act *valvularly* to prevent the escape of the gases between it and the sides of the bore and projectile. This sabot may be cast of a composition of zinc and tin, or of lead, tin, and copper, in iron or brass molds.

The sabot should be driven on the projectile in the laboratory, and care should be taken to see that the valvular portion of the sabot fits the projectile closely.

A suitable charge of powder is to be introduced into the gun, and the projectile and sabot placed in the position represented in Fig. 1.

The surface of the sabot exposed to the action of the gases formed by the inflammation of the powder being much greater in proportion to its inertia than that of the ball, the sabot is driven forcibly forward upon the ball so as to embrace it tightly and thus impart the rifle motion which itself receives from the grooves of the gun; and at the same time it is stretched to fill the bore of the gun completely, thus destroying the windage and causing the ball to advance strictly in the line of the axis of the bore.

The change in the form of the sabot, produced by the pressure of the gases, is illustrated by Fig. 6, which is a somewhat exaggerated representation of the sabot after firing, the dotted line showing its form before firing. The degree of alteration in the form of the sabot is dependent upon the difference of the diameter of the sabot and of the bore of the gun.

The rifle motion is not by this means communicated to the projectile strictly instantaneously, but somewhat gradually, the sabot turning a little upon the projectile during the first instants of their motion, though its hold on the projectile is maintained so long as they receive the pressure of the gases. It is obvious that when the rifle motion is thus imparted in a *succession of instants* rather than *instantaneously*, the stress upon the projections of the sabot or grooves of the gun will be much less in any one of these short periods of time than it would be if the whole effect were produced in the same short period.

This is a peculiarity of great importance, as it obviates the great defects of the only modes of giving the rifle motion to heavy iron projectiles hitherto proposed, which

*The plates are omitted from this appendix.

are worthy of mention, namely, the attachment of projections of a soft metal to enter the grooves of the gun, and the casting of similar projections as a part of the projectile itself. The chief defect of the first of these modes is that the projections are generally stripped from their attachments by the shock to which they are exposed, and consequently the projectiles fail to take the rifle motion, and every modification of the latter mode must result in the rapid abrasion of the sides of the grooves of the gun when the projectile commences its motion, causing increased resistance to the motion of the projectile and great danger of bursting the gun.

The shells may be packed for transportation in the manner which will be understood from Fig. 7.

By permission of the Secretary of War some experiments were made in the autumn of 1850 to test the practicability of giving the rifle motion to cannon projectiles in the manner described.

The gun made use of was a bronze 6-pounder of 14 calibers length, weighing 809 pounds. It was rifled at Washington Arsenal. The shells were cast at a foundery in Washington, but owing to the want of suitable flasks for the purpose they were irregular in thickness. The experiments were made at Fort Monroe, Old Point Comfort, Va. The gun was mounted on a field carriage, and fired from a siege gun-platform.

The first three fires were made principally for the purpose of ascertaining the proper lengths to be given to the sabots. The shells had their fuse-holes stopped with iron plugs. They were aimed by an officer of much skill and experience.

(1) *Firing to ascertain proper length of sabots.*

Number.	Weight of charge.		Elevation.	Range.		Lateral deviations.	
	Powder	Shell and sabot.		First graze.	Extreme.	Right.	Left.
	Pound.	*Lbs. oz.*		*Yards.*		*Feet.*	*Feet.*
1	1	10 6	3°	975	.....	18	69
2	1	10 6	3°	1,089	.....	.....	.....
3	1	10 6	3°	866	.....	.....	45
Mean	1	10 6	3°	976	.....	44	.....

The great deviations show that the rifled motion was not properly given to the projectiles, though it is probable, from the helical course of their flight, that they made three or four revolutions on their own axis before striking.

The sabots were all recovered, and the examination proved them to have been too long.

For the next six fires the shells, which were of irregular thickness, were filled with tin, to give them as nearly as possible the character of solid shot. In accordance with the indications of the first three fires, the sabots were reduced to the length shown in Plate 4. The shells and sabots were each marked with a number and the position of the sabots on the shells was marked by corresponding lines on each.

The following table shows the result:

(2) *First six rounds with reduced sabot.*

Number.	Weight of charge.		Elevation.	Range.		Lateral deviations.	
	Powder.	Shell and sabot.		First graze.	Extreme.	Right.	Left.
	Pound.	*Lbs. oz.*		*Yards.*		*Ft. in.*	*Ft. in.*
1	1	11 15.7	2°	834	Not found.	7 1	.....
2	1	11 13.5	2°	763	Not found.	6	.....
3	1	11 11.6	2°	817	1,800 yds.	.....	1 11
4	1	12 9.7	2°	770	1,650 yds.	9	.....
5	1	12 9.8	2°	748	1,520 yds.	.....	5 2
6	1	12 8.1	2°	687	1,800 yds.	.....	5 3
Mean	1	12 3.4	2°	770	1,642 yds.	3 feet 5.33 inches.	

A comparison of the deviations in this table with those of the former well indicates the result of giving the projectiles the rifle motion.

Each of the four shells found was much scratched on one side of the forward end, having struck on a gravelly portion of the beach.

The sabots were knocked off from three of them (Nos. 4, 5, and 6) at the first contact of the shell with the ground; No. 3 retained its sabot to its extreme range. The sabot was found to be driven on the shell about 0.15 inch, and rotated about 4½ degrees, sufficiently to correspond with the twist of the rifling in about 6¼ inches of the bore. It is obvious that the forward motion of the shell must have exceeded this distance before it acquired a rotation corresponding with the grooves of the gun.

The sabot was stretched upon the shell so as to fill the bore of the gun, and could not be re-entered without considerable force.

It was observed by the man stationed to mark the first graze of the shells that they seemed to rise but 5 or 6 feet after ricochetting, while the horizontal distance passed over in the first bound was unusually great. This result might be expected from the small angle which the impinging surface of the shell makes with the surface of the ground, and corresponds with the great extreme range of the shells given above.

The following table gives the result of the first six fires at a target.

The target was constructed of yellow-pine timber, and was 2 feet thick, its height being 10 feet and its breadth 12 feet.

The shells were each charged with six ounces of powder, and furnished with an experimental percussion fuze, which was designed to explode only upon receiving a severe shock. The fuses were inserted in the shells after the shells were introduced into the muzzle of the gun, requiring only to be pushed in with the finger.

The distance of the target from the gun was 600 yards.

(3.) *First six rounds fired at target.*

[Distance 600 yards.]

Number.	Weight of charge.		Elevation.	Lateral deviations.	
	Powder.	Shell and sabot.		Right.	Left.
	Pound.	*Lb. oz.*		*Ft. in.*	*Ft. in.*
1	1	9 10	1°	.....	4 7½
2	1	9 5.4	1° 30′	(Missed to left.)	
3	1	9 10.5	1° 45′	(Went over in line.)	
4	1	9 15	1° 30′	8 0½	.....
5	1	9 13.5	1° 30′	0¾	.....
6	1	9 13.7	1° 30′	1 8½	.....
Mean	1	9 8.7	.....	2 feet 4½ inches.	

The first shell being fired at too low an angle, struck the ground in front of the target and ricochetted into it, penetrating 16 inches, point foremost.

The sabot of the second shell was recovered, and was found to be pierced with a large number of small holes, communicating between its rear end and its inner surface, probably in consequence of imperfect casting.

It will be observed that the elevation of the third round was 15′ greater than that of the subsequent ones.

Nos. 4, 5, and 6 went through the target. All struck point foremost, as could be ascertained from the marks of the sabots in the holes made by the shells. Shell No. 4 was found 350 yards beyond the target. The fuse, which was extracted, was found to have been broken by the shock received in the gun.

Shell No. 5 burst 3 feet behind the target. The distance was ascertained from the marks left by its explosion on the side of a brace of the target. Shell No. 6 burst behind the target, probably about the same distance, though it could not be exactly determined.

Several rounds were subsequently fired at the target for the purpose of testing modifications of the fuse.

Three trials were made with charges of 1¼ pounds of powder (the service charge for 6-pounders) for the purpose of comparing the ranges of the shells with the ranges of 6-pound shot.

(4.) *To compare ranges.*

Number.	Weight of charge.		Elevation.	Range.		Lateral deviations.	
	Powder.	Shell and sabot.		First graze.	Extreme.	Right.	Left.
	Lbs.	*Lbs. oz.*	°	*Yds.*			*Ft. in.*
1	1¼	9 7	2	853	(*)	.....	1 11
2	1¼	9 6	2	769	(*)	.....	7 4
3	1¼	9 12	2	882	(*)	.....	8 5
Mean	1¼	9 8.3	2	834⅓	.....	.....	5 5

* Not observed.

The Ordnance Manual gives 867 yards as the mean range of the 6-pounder gun with a solid shot and 1¼ pounds of powder.

The bore of the gun was repeatedly and carefully examined with the aid of a mirror, and it received no injury until the firing of the last shell, which burst in the gun.

This shell had been twice fired through the target and was reserved as of doubtful soundness. Three indentations were made near the middle of the chase of the gun.

On comparing the results of the firing given above with those obtained with smooth-bored guns, we have to regret the want of desirable data. The tables of artillery practice given in the Ordnance Manual make no reference to accuracy of firing, and but little minute information on this particular is accessible at the Ordnance Office. I have been unable to find any table of firing corresponding nearly with the first six rounds. The following statement of practice with the French 8-pounder (about equal in caliber to our 9-pounder) from the "Aide Mémoire," 1884, probably applies as nearly as anything I have been able to obtain.

The mean lateral deviation of 100 rounds at the distance of 500 meters (547 yards) was 2.3 meters (7 feet 6½ inches), and at 800 meters (875 yards) 7.0 meters (22 feet 11½ inches).

The three rounds of table (4) correspond pretty nearly in distance to this last. We may make the following comparison:

	Ft.	In.
Mean deviation of French 8-pound shot at 547 yards	7	6½
Mean deviation of French 8-pound shot at 875 yards	22	11½
Mean deviation of rifled-gun shell at 770 yards	3	5½
Mean deviation of rifled-gun shell at 834 yards	5	5

Ten rounds of solid shot were fired by an officer of the Ordnance Department from a smooth-bored 6-pounder with the service charge (1¼ pounds) of powder at the same target and from the same distance as the six rounds of table (3), principally for the purpose of comparing the penetrations. Four of these shots hit the target, six missing it. The mean penetration was 16 inches. The deviations are not known.

A table was also furnished me, by the kindness of Colonel Huger, of the firing of 75 rounds of 6-pound shot with the service charge, at a target 10 feet high by 20 feet wide and 600 yards distant. The lateral deviations are given in feet. The number of hits was 49, of which the average deviation was just 4 feet. The number of hits on the central 12 feet of the target (or of which the deviations are set down as 6 feet or less) was 31, their average deviation 3 feet.

We will again compare as follows:

The proportion of hits in firing at targets 600 yards distant is in the table furnished by Colonel Huger (central 12 feet), 1 to 2.4; ten rounds (6-pound shot), 1 to 2.5; table (3) rifled gun, 1 to 1.5. The mean lateral deviation of the above hits was in the table furnished by Colonel Huger (central 12 feet), 3 feet. Table (3) rifled gun, 2 feet 4 inches.

The following statement was the only information furnished me on application at the Ordnance Office in regard to the deviations of firing at the distance of 600 yards:

[Extract from General Orders No. 10, 1844.]

ORDNANCE OFFICE, *Washington, February* 17, 1844.

* * * Of 114 fires from field artillery (6-pounder guns and 12-pounder howitzers) at targets from 400 to 600 yards distant, there were 37 hits, rather more than one in four shots. * * *

G. TALCOTT,
Lieutenant-Colonel Ordnance.

General R. JONES,
Adjutant-General, U. S. A.

The size of the target is not given, and no accurate comparison can be made. Of the whole number of shells fired at the target from the rifled gun, one-third hit the target; and their average deviation was a little less than 22 inches. Some of these shells were very defective, the best being used in the first rounds.

The superiority of the firing of the rifled gun is markedly seen in its comparative penetration.

The 6-pound shot fired with 1¼ pounds of powder penetrated 16 inches, while the shell fired with 1 pound of powder went through the target (24 inches) and still retained a great velocity, as is evident from the distance at which the shells exploded behind the target, although they were fired by percussion against it.

This advantage in regard to penetration is doubtless the result of the following causes: The prevention of the loss of the force of the powder by windage, as already explained; the decreased resistance of the air to the projectile, and lastly, the advantageous form of the shell for penetration. The effect of the first two of these causes is also seen in comparing the mean range of the three shells fired with 1¼ pounds of powder with the mean range of 6-pound shot with the same charge and at the same elevation as given in the Ordnance Manual. Although the weight of the shell exceeds that of the shot more than 50 per cent., its range lacks less than 4 per cent. of being equal.

The advantages of the proposed plan over the use of ordinary smooth-bored guns, if we may deduce them from the foregoing experiments, may be expressed in the following summary:

(1) The greater effective force or penetration of the projectile.

(2) The greater accuracy of firing.

(3) The ability to explode shells by percussion against the object at which they are fired.

(4) The flattened form of the ricochet, which renders ricochet firing much more destructive.

(5) The greater durability of the gun, in consequence of the prevention of the lodgments usually formed by the bounding of the ball in the bore.

(6) It will necessarily follow from the facts that the same initial velocity may be imparted to the proposed shell, and that its resistance to the air is less; that greater ranges may be obtained by the proposed plan than are possible with spherical shot.

It would be but stating the converse of these advantages to say that guns and ammunition of equal efficiency would have less weight and more transportability.

The service of the gun is rendered no more complex, and if any increase of time is required in loading it will be only in presenting the ball properly for entering the gun, and the whole time consumed in charging the gun will be much less than is always required for accurate aiming.

The importance of these advantages undoubtedly varies in different departments of service. It is probably greatest in siege, sea-coast, and naval service.

In siege service great penetrative force of the shot or shells, accuracy of firing, long ranges, and transportability of guns and ammunition, are all necessary in the highest degree.

The explosion of shells by percussion will probably be of greatest importance in firing against shipping. Great want of uniformity in the distance at which shells will explode when fired with the common fuses, even though perfect uniformity were attained in the time of their burning, will always occur, in consequence of the variation in the time of flight of shells fired under apparently the same circumstances; and when to this is added the difficulty of a correct estimate of distances, the probability of exploding a shell at any particular place will be seen to be exceedingly small. It is also a matter of great difficulty to lodge a shell in a ship's side, since the conditions to be fulfilled include the weight of the charge, the distance, and the angle of the ship's side with the line of fire. In the use of percussion shells, however, the velocity most favorable to accuracy may be used, and these difficulties are entirely avoided.

The effect of the explosion of a large shell between the decks of a ship of war can hardly be anticipated. The accidental explosion of a 10-inch shell on board the English practice ship *Excellent* is stated to have put 100 men *hors du combat*.

Long ranges and accuracy of firing are eminently important in sea-coast service.

The estimated importance of long ranges and great penetrative force in the naval service is evinced by the introduction of guns of heavy caliber. The decreased weight of the guns, and the diminished force of recoil consequent on the more economical use of the explosive force of the powder in producing equivalent effect, would doubtless be desirable.

With the desire that the value of the plan proposed may be fully tested by guns of heavy caliber, and compared with the unrifled cannon now in use in the various points affecting its utility in the different branches of service, Congress is petitioned for the necessary aid.

WILLIAM E. WOODBRIDGE.

DECEMBER, 1852.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1485.

IN THE SENATE OF THE UNITED STATES.

JULY 12, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4415.]

The Committee on Pensions, to whom was referred the bill (H. R 4415) granting a pension to John S. Dill, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives hereto appended is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 4415) granting a pension to John S. Dill, have considered the same and report:

A similar bill was introduced in the House at the first session of the Fiftieth Congress, and was favorably reported to the House by your committee in report No. 3057.

Said report contains a correct statement of the facts, and your committee adopt the same as their report, and recommend that the bill do pass with the following amendment: Strike out all after the word "War" in the sixth line, and substitute in lieu thereof the words: "And allow him a pension at $8 per month.

[House Report No. 3057, Fiftieth Congress, first session.]

The Committee on Pensions, to whom was referred the bill (H. R. 2089) granting a pension to John S. Dill, have considered the same and report as follows:

Departmental records show that John Dill served in a company commanded by Capt. J. Mayo, of Illinois Volunteers, in the Black Hawk war, from June 19, 1832, to August 15, 1832. His claim for pension before the Pension Bureau, based on the alleged incurrence of right inguinal hernia while in service, has been rejected on the ground of no record of said disability and no sufficient proof of its incurrence in service.

The claimant is now seventy-six years old and is affected by an inguinal hernia as alleged, which would entitle him to a rating of $8 per month under the general pension laws, and by varicose veins, also claimed to be due to service, for which a rating of $4 per month would be commensurate.

Additional evidence has been filed in the claim since its rejection. It is shown by the testimony of a sergeant and a private in claimant's regiment that he was thrown from his horse in service in 1832 and injured severely in the groin. The disability has continued ever since.

This man would be entitled to a pension under the bill reported by this committee at the present session of Congress, to pension the survivors of the Indian wars from 1832 to 1842.

Your committee recommend the passage of the bill.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1486.

IN THE SENATE OF THE UNITED STATES.

JULY 12, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2430.]

The Committee on Pensions, to whom was referred the bill (H. R. 2430) granting a pension to Ruth A. Ball, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2430) granting a pension to Ruth A. Ball, submit the following report:

The claimant was the widow of Mathew Holmes, second lieutenant, Company B, Twenty-eighth Michigan Infantry, who was killed in action at the battle of Wise's Forks, March 8, 1865. She was pensioned at the rate of $15 per month, and said pension was paid her until her marriage with one Ball, about ten years after. Said Ball proved to be a worthless character, and after living with her long enough to squander her small means deserted her. She has no knowledge of his whereabouts for the past twelve years, and has been informed that he was married to another woman, from whom he was not divorced at the time of her marriage to him, and that he is now living with this woman. In view of the fact that her first husband was killed in battle, and that the claimant is now in poor health and destitute circumstances, and that it is a common practice to restore such to the pension-rolls, your committee recommend the passage of the bill with the amendment as noted in the bill.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1487.

IN THE SENATE OF THE UNITED STATES.

JULY 12, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4935.]

The Committee on Pensions, to whom was referred the bill (H. R. 4935) to increase the pension of Elmore E. Ewing, have examined the same, and report:

The report of the House committee, appended hereto, sets forth with sufficient fullness the grounds upon which this application is based.

In view of these considerations the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4935) to increase the pension of Elmore E. Ewing, having considered the same, report as follows:

The claimant enlisted as a private in Company A, Ninety-first Ohio Volunteers, on the 31st day of January, 1862; was promoted to second lieutenant Company K of said regiment June 25, 1863, and to first lieutenant of said company to date August 14, 1864, and was mustered out of the service December 4, 1864.

He was severely wounded in battle, in the line of duty, at Winchester, Va., July 24, 1864. The wound is described by surgeons as follows:

"Ball entered at the point of the left scapula, passed through the left lung, making its exit about 1 inch to the left of the left nipple."

There is a constant oppression in the lung and he is subject to hemorrhages. Any attempt to labor causes nervousness and sleeplessness, and in ascending stairs he suffers severe pain in the region of the heart. As he grows older his disability increases, and, in the opinion of your committee, he is fairly entitled to the pension provided in the bill, and we therefore recommend the passage of the bill.

This claimant's pension has been increased from $10 to $17. At different periods until now he received the full amount allowed for his rank for total disability. His disability is liable to cause death, and it was rejected in Pension Office because he could not be allowed increase on account of his dangerous condition.

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51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1488.

IN THE SENATE OF THE UNITED STATES.

JULY 12, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R 4930.]

The Committee on Pensions, to whom was referred the bill (H. R. 4930) granting a pension to Joseph Fisher, have examined the same, and report:

The following report, submitted by the House committee, is adopted as the report of your committee, and the passage of the bill is recommended:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4930) granting a pension to Joseph Fisher, submit the following report:

The report of the Committee on Invalid Pensions of the Fiftieth Congress on a similar bill is as follows:

"The proposed beneficiary of this bill was employed by the Government as a special agent in the eleventh district of Ohio from the 24th day of May, 1863, to the 30th day of April, 1865. On the 19th day of May, 1864, he was sent by B. F. Cory, provost-marshal of said district, as his acting deputy (as his deputy for the time being) to a place near McDaniel's, in Gallia County, in said district, to arrest a deserter from the Union Army by the name of McDaniels, and while engaged in making the arrest was shot by the deserter, the ball passing lengthwise through his tongue and lodging in his throat at the base of the tongue, inflicting a wound which has seriously and permanently disabled him. He applied for pension, but his claim was rejected on the ground that there was no law authorizing the pensioning of a special agent. The law does, however, provide for pensioning deputy provost-marshals, and as the claimant was acting as such at the time he received the injury we think he should be pensioned, and therefore recommend the passage of the bill."

Your committee adopt said report as their own, and likewise recommend the passage of the bill.

51st Congress, 1st Session. | SENATE. | Report No. 1489.

IN THE SENATE OF THE UNITED STATES.

July 12, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8371.]

The Committee on Pensions, to whom was referred the bill granting an increase of pension to Thomas H. Gohagan, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

[House Report No. 1098, Fifty-first Congress, first session.]

The claimant, Thomas H. Gohagan, drummer of Company B, Van Horn's Battalion, U. S. Reserve Corps, Missouri Volunteers, enlisted July 16, 1861; mustered out October 29, 1861; enlisted in Company B, Twelfth Kansas Volunteers, August 22, 1862; discharged September 15, 1865. Was pensioned for hernia in 1881, and increased to $8 for same disability in 1884. Filed claim for disease of eyes December, 1886, alleging total blindness of left eye and partial blindness of right eye, the latter the result of sympathetic affection.

Claimant alleges that this disability was incurred on or about the 20th day of July, 1861, while serving in Company B, Van Horn's Battalion, in the vicinity of Harrisonville, Mo., in line of duty in battle, while working a field piece. Claimant became very warm, and threw off coat and hat, which were lost, and claimant was exposed to the rain and storm without shelter, which caused him to take severe cold, which settled in his eyes.

Dr. Thorne testifies that he was surgeon in charge of the expedition, corroborating claimant's allegation as to time and place, stating that he examined and gave him treatment for sore eyes, and in a few days sent him to hospital at Kansas City, that he returned to that place himself in a few days and treated claimant for iritis, that claimant left the hospital under his protest, went and joined his command, went with it to Lexington, Mo., where after much exposure he was captured at the surrender of that place, paroled and returned again to the hospital almost blind; that he then continued to treat him until spring of 1862; that when claimant left hospital he had opacity of one eye.

Second Lieutenant O'Neil, of Company B, Van Horn's Battalion, testifies that the claimant was in charge of a ten-pound cannon at the engagement; to the losing of his shoes and hat, and exposure to rain without shelter; that in the course of a day or two claimant was sent to Kansas City on account of sore eyes; that he remained away under treatment until about the middle of the following September, when he rejoined the command and took charge of the gun, although still suffering with inflamed eyes; he went with the command to Lexington, and during the ten days' siege was much exposed, he being considered as

the best gunner of the command, and at the end of the siege his eyes were much inflamed, and that he seemed to be nearly blind.

Capt. William O. Hubbell, of the Twelfth Kansas, testifies, that he was at that time a member of a Kansas militia company, and at the battle near Harrisonville, and that a day or two after the battle he first formed acquaintance of claimant, who had a handkerchief tied over his eye; that claimant attracted particular attention on account of his soldierly appearance and knowledge of military tactics, being at the time engaged in drilling a squad; that he entered into conversation with claimant, who informed him that he had received a slight injury while working a field gun at the fight, which he regarded as a small matter, but from exposure in the rain without shelter he had taken cold, which had settled in his eyes. Captain Hubbell also testifies that he met claimant in September, 1862, as he was being mustered in as principal musician of the Twelfth Kansas; that claimant told him that he had lost the sight of left eye from injury received at Harrisonville; that to a casual observer his eye would not be noticed, but upon close examination he found it to look dim and dull, and that he was satisfied that he was blind in that eye. Edward McCarty, a private in Company B, Van Horn's battalion, corroborates other testimony as to incurrence of disability at Harrisonville, Mo.

This claim was finally rejected at the Pension Office in March, 1890. Was given into the hands of a special examiner September 22, 1888, who recommended its rejection on account of his belief that Dr. Thorne and Captain Hubbell were very willing witnesses; that Dr. Thorne's testimony in some other case he believed to be not just right, although admitting that Dr. Thorne's reputation, where he lives, for truth and veracity to be good. From the reading of the special examiner's report your committee is inclined to believe that he is a man of very strong prejudices, having previously formed an unfavorable opinion of Dr. Thorne, he would not be a suitable judge-advocate for the case. Claim was referred to another special examiner October 29, 1889, who says:

> I am inclined to give the soldier the benefit of the doubt, and more especially as he is shown to have rendered conspicuous and valuable service and is now blind and destitute.

Your committee find from the testimony that the claimant was at that early stage of the war very conspicuous on account of his military training, which he had received in the English army and navy; that he rendered valuable services in drilling the soldiers; that at the battle near Harrisonville he took charge of a field gun and displayed extraordinary ability; and at the siege of Lexington excited comment for valor and ability, and was recommended for promotion. Many of the best citizens of Lawrence, Kans., testify that he is in destitute circumstances, blind, and being led about by his little boy. Therefore, if there be a doubt in this case, your committee are disposed to favor the claimant and recommend that the bill do pass with the following amendments:

To insert "forty" instead of "seventy-two" in line 5. Also to strike out the middle letter "N" and insert "H," and the letter "E" and insert "A," so that the name will be Thomas H. Gohagan.

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51st Congress, 1st Session. | SENATE. | Report No. 1490.

IN THE SENATE OF THE UNITED STATES.

July 12, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 7658.]

The Committee on Pensions, to whom was referred the bill (H. R. 7658) granting a pension to Isaac Kelly, late of Company D, First Regiment Illinois Infantry, in the war of the United States with Mexico, have examined the same and report:

From the facts stated in the House report, which is hereto attached and made a part hereof, we believe this to be a meritorious measure and do recommend the passage of the bill.

[House Report No. 1458, Fifty-first Congress, first session.]

The Committee on Pensions, to whom was referred the bill (H. R. 7658) increasing the pension of Isaac Kelley, have considered the same and report:

The claimant was a private in Company D, First Illinois Infantry, and served in the war with Mexico. He is now a pensioner at $8 per month on account of said service.

The bill is accompanied by the sworn statements of Dr. F. O. Harrison, Allan Jones, and Benjamin F. Overturf, citizens of Christopher, Ill., which show the claimant to be nearly seventy-one years old, able to perform but little manual labor, and very poor.

There are precedents for the allowance of the increase prayed for, and your committee report the bill back with the recommendation that it do pass.

Amend by striking out the work "four" in the ninth line, and substituting in lieu thereof the word "eight."

51st Congress, 1st Session. | SENATE. | Report No. 1491.

IN THE SENATE OF THE UNITED STATES.

July 12, 1890.—Ordered to be printed.

Mr. Dawes, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany S. 4207.]

The Committee on Indian Affairs, to whom was referred the bill (S. 4207) entitled "A bill extending the time of payment to purchasers of land of the Omaha tribe of Indians in Nebraska, and for other purposes," have had the same under consideration, and report it back favorably and recommend its passage.

A bill on the same subject (H. R. 5974), that passed both branches of the Congress at the present session, was recently vetoed by the President for the reason, solely, that it contained the following provision, viz:

> That all the lands, the payment for which is hereby extended, shall be subject *to taxation* in all respects by and in the State of Nebraska as if fully paid for and patents issued.

The Executive was of the opinion that this would give a purchaser of the lands at a tax-sale a title superior to the lien of the Government for purchase money.

The present bill omits the objectionable provision which provoked the veto. Your committee adopt the report made by it on the original bill, which was as follows—following the language of the House report, in which your committee concurred and now re-adopt as applicable hereto:

> The relief sought by this bill is to allow the purchasers of land on the Omaha Indian Reservation, who purchased this land under and by virtue of an act of Congress approved August 7, 1882, to extend the time for making the first payment of principal until December 1, 1894. These lands were sold in 1883, at a time when real estate was at its highest point in Nebraska, and the land was sold at prices averaging more than $12 an acre. The purchasers under the law were compelled to erect buildings and improve the land. This has been done in every case. As under the act the money paid by the purchasers is covered into the Treasury and the Omaha Indians receive only the interest thereon, your committee deem it wise to allow the principal to remain in the hands of the purchasers instead of lying idle in the Treasury of the United States. There is no question but that the principal is well secured.
>
> Section 2 of the act allows an entryman who purchased less than 160 acres of land to buy at the appraised value additional lands so that the amount purchased shall not in the aggregate exceed 160 acres as provided in the original act, the lands so purchased to be contiguous to those already secured, and the terms of payment to be made the same as in the original act provided.
>
> This is an amendment recommended by the committee, but desired by the settlers, and with this amendment the passage of the bill is recommended.

This bill, like the one vetoed, requires all interest to be paid over to the Indians, and distributed by the agent pro rata, annually, in order to enable them to purchase needed machinery, tools, implements of hus-

bandry, and to make improvements on their farms. They having taken lands in severalty since the passage of the act of August 7, 1882, this extension of financial aid seems wise and just.

Your committee have added, by way of an amendment to the original bill, a provision saving the rights of settlers who may have been in default July 1, 1891, relying as they have upon Congress to extend their times of payment before any forfeiture was incurred. In view of the objects of the measure this seems only just and proper.

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1ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1492.

IN THE SENATE OF THE UNITED STATES.

JULY 14, 1890.—Ordered to be printed.

Mr. ALLEN, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 2591.]

The Committee on Claims, to whom was referred the bill (S. 2591) giving the Court of Claims jurisdiction of the claims on account of property of the Chesapeake Female College, possessed and used by the United States military authorities, respectfully submit the following report:

That in May, 1861, the Chesapeake Female College, an incorporated institution for the higher education of young ladies, owned and occupied a large and well-fitted seminary building, with suitable furnishings and apparatus and convenient associated buildings, on a tract of land consisting of about 40 acres in Elizabeth City County, Va., within less than a mile of Fortress Monroe. At this time the seminary was in a prosperous condition and doing an excellent educational work. It was in charge of its president, Rev. Charles A. Raymond. In the latter part of May, 1861, this property was taken possession of by order of General Benjamin F. Butler, commanding the Federal forces at Fortress Monroe. In taking possession of the property he directed Brig. Gen. Ebenezer W. Pierce to occupy the building and adjoining lands and, as soon as practical after taking possession, to complete an inventory and appraisement of all the personal property of the college buildings, and directing that such parts as were useful to the troops be kept in the building and the remainder be turned over for safe keeping to Captain Tallmadge, assistant quartermaster of the United States. Certified copies of such inventory were made, the original delivered to the quartermaster, one placed in the hands of Rev. Charles A. Raymond, and one kept by the commanding general as his voucher. The college property remained in the occupation of the Federal troops from this time until the close of the war, after which the Government retained its occupancy as the headquarters of General Schofield, department commander, until 1866 or 1867, and for the use of the Freedman's Bureau until June 29, 1869, when the college was turned over and possession taken by Rev. Charles A. Raymond in its behalf.

The building was in good repair and properly and comfortably furnished for school purposes at the time possession was taken by our troops. That part of the State of Virginia embracing Elizabeth City County remained within the Union and was represented in Congress during the rebellion by Hon. John Segar, and was excepted from the President's proclamation of insurrection of August 16, 1861.

No question is raised as to the loyalty of Rev. Charles Raymond, the president and manager of the institution. Immediately upon taking

possession of the property by the Federal troops the building was occupied for hospital and other purposes, its appropriation to army uses increasing throughout the war. The college itself was continuously used as a hospital for sick and wounded officers, while hospital, prison, and other structures were erected on other parts of the land. From the time possession of the property was returned to the owners, Dr. Raymond, on its behalf, constantly and earnestly applied to the different departments of the Government for compensation for its occupation and indemnity, for the injury and destruction of personal property, and has throughout shown earnest and persistent diligence in endeavoring to have compensation allowed.

Your committee therefore recommend that the claim be referred to the Court of Claims, regardless of the statute of limitation, with directions to that court to ascertain a reasonable rental of the property during the time the same was occupied under authority of the United States, and also the amount of damages sustained by it in the loss, destruction, or injury to the personal property taken possession of by the Government and not restored or accounted for.

Annexed to this report is a copy of the inventory delivered under authority of General Butler to Dr. Raymond at the time the Government took possession.

Copy of schedule of property of the Chesapeake Female College, Hampton, Va., June 8, 1861.

FIRST FLOOR.

Dining-room:	
6 extension tables, black-walnut, cost $27 each	$162.00
6 dozen chairs, $9 per doz	54.00
1 black-walnut sideboard, marble top	35.00
1 circular clock	12.00
1 refrigerator	28.00
Wash-room:	
1 cooking stove, $40; 1 safe, $5	45.00
Pantry:	
6 pair covered vegetable dishes	12.00
6 milk pitchers, $3; 1 dozen molasses pitchers, $4	7.00
1 dozen butter stands, $1.50; 1 dozen gravy dishes, $1.50	3.00
6 dozen tumblers, $4; 6 dozen dining and tea plates, $20	24.00
1 dozen mugs, $1; 1 dozen egg cups, $1; 5 dozen soup plates, $7.50	9.50
3 large soup tureens, $12; 1½ dozen large and small meat dishes, $12	24.00
Store-room:	
2 Safes with drawers	20.00
Lower hall:	
Water cooler, $6; black-walnut table, marble top, $18	24.00
School-room:	
29 desks, black-walnut, iron standards, $4.50	130.50
6 dozen chairs, $9	54.00
5 hanging maps, very large	26.00
Stove and pipe	22.00
First lecture room, department of languages:	
2 slate black-boards framed and mounted	16.00
1 case for books, doors and drawers	12.00
1 table, shifting top, $3; stove and pipe, $10	13.00
Second lecture room, department of mathematics:	
2 slate black-boards mounted	16.00

SECOND FLOOR.

Chapel:	
36 settees, extra quality, $4.50	162.00
1 piano, 7-octave, rosewood	280.00

Chapel:

1 melodeon	$100.00
1 dozen office chairs	21.00
1 movable hot-air furnace	125.00

Third lecture room, department of natural science (President C. A. Raymond's private property):

Philosophical and chemical apparatus, made to order in Philadelphia, very fine and complete, cost	2,400.00
Scientific, theological, and miscellaneous library, say 1,000 vols., some very rare, cost	1,500.00
Natural history cabinets (shells, minerals, animals, and birds, several hundred specimens)	500.00
Show-cases with glass doors	60.00

Office:

Black-walnut table, oval extension table	28.00
Mahogany desk with book-case	14.00
Stove and R. pipe	22.00
6 cane chairs, 3 with arms	12.00

Reception-room:

1 center table, marble top, walnut	18.00
2 etageres, 1 marble top, with doors and shelves	30.00
2 side tables, black-walnut	6.00
1 lounge	11.00
2 rocking chairs	6.00
2 pictures and frames	10.00
2 mirrors	40.00

Reading-room:

1 piano, rosewood, 7-octave	280.00
1 book-case, glass front, and books	100.00
1 stove and pipe	20.00
2 settees	9.00
1 dozen chairs	16.00

Bedroom, mahogany furniture:

1 bedstead, French, mahogany	11.00
1 bureau, marble top	16.00
1 wash-stand, marble top	12.00
4 chairs, cane seats	8.00
Carpet, all wool	18.00

Bedroom, rosewood furniture (President C. A. Raymond's private property):

1 carpet, velvet	75.00
2 wardrobes	75.00
1 bedstead, 1 bureau, 1 washstand, marble, rosewood	100.00
1 hair mattress	28.00
1 writing-desk and work-stand, rosewood	24.00
1 lounge, enameled leather, $11; 1 under mattress, $6	17.00
6 chairs, $12; 1 crib with hair mattress, $12	24.00

Bedrooms on north side (President Raymond's private property):

3 bedsteads, black cottage style	15.00
6 mattresses, extra quality	30.00
2 bureaus, at $12, $24; 2 setts chamber crockery, at $4.50 and $6.50	34.00
Stove and pipe	16.00

Second hall:

1 hat-stand, $12; 2 settees, $8; 4 oak chairs, $10	30.00
4 pieces cocoa matting, covering floors of four halls, 200 yards, at 65 cents	130.00
10 transparencies (windows) and fixtures	24.00

Store-rooms (President C. A. Raymond's private property):

8 pairs fine blankets, at $48; 12 pairs sheets, at $30	78.00
2 pairs linen sheets, $10; 2 bed-spreads, $8	18.00
1 dozen pillow-cases, $3; 2 dozen towels, $6; 1 dozen napkins, $3	12.00

THIRD AND FOURTH FLOORS (THIRTY BED-ROOMS).

30 bureaus, cottage style, at $7	210.00
60 wash-stands, at 75 cents	45.00
50 wash-bowls and pitchers	75.00
50 chambers, covered, $50; 50 towel-racks, at 60 cents, $30	80.00
50 soap-stands and mugs	6.00
50 black cottage bedsteads, at $5	250.00
50 mattresses, cotton and shuck, at $5	250.00
10 doz. wood-bottom chairs, at $6	60.00

Black-walnut bedroom furniture:	
1 bedstead, $12; 1 bureau, $12; 1 marble-top wash-stand, $12	$36.00
1 carpet, $12; 4 black-walnut chairs, $6	18.00
1 school piano-forte	160.00

FIFTH FLOOR.

4 pianos, $140, $135, $85, $150	510.00
Painting room:	
9 easels, $16; 10 picture-frames, gilt, $50; 25 pictures, $55	121.00

O

51st Congress, 1st Session. | SENATE. | Report No. 1493.

IN THE SENATE OF THE UNITED STATES.

July 15, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 2050.]

The Committee on Pensions, to whom was referred the bill (S. 2050) granting a pension to Franklin Bannon, late of Company C, Eleventh Indiana Veteran Volunteer Infantry, have examined the same and report:

That this claim was rejected by the Pension Bureau on the ground that the claimant had, while a prisoner of war, enlisted in the rebel service and was recaptured by United States forces while bearing arms against the Government.

It is due the soldier to say that he denies this, and there is some evidence, though not of a very direct character, in corroboration of a denial, but as the disabilities claimed for are of a very general character and not very plainly traceable to the military service, we decline passing further upon the merits of this claim in any respect. We suggest that if for any reason the claimant is entitled to a pension he is entitled under the recent general law passed at this session upon that subject, and may make his application under said law. We therefore recommend the indefinite postponement of the bill.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1494.

IN THE SENATE OF THE UNITED STATES.

JULY 15, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 2053.]

The Committee on Pensions, to whom was referred the bill (S. 2053) granting a pension to Richard H. Taylor, of Frankfort, Ky., have examined the same and report:

That this claim has been rejected by the Pension Bureau on the ground that the claimant was a civil employé of the Government. It appears from the evidence that he acted as chief clerk in the commissary department at Vera Cruz, Mexico, in 1847, during the Mexican war, but he never was enlisted or served as a soldier.

This committee has determined in a similar case during the last war of 1861, wherein the widow of a deceased clerk in the commissary department applied for a pension, that such service was not pensionable, the husband being only a civil employé of the Government. The committee adheres to its former action upon this subject. We are not inclined to make any precedent favorable to the allowance of pensions to persons not in the military or naval service of the United States. We therefore recommend the indefinite postponement of the bill.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1495.

IN THE SENATE OF THE UNITED STATES.

JULY 15, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 2265.]

The Committee on Pensions, to whom was referred the bill (S. 2265) granting a pension to James B. Light, late a private in Company L, Ninth Ohio Cavalry, have examined the same and report:

That this claim has been rejected by the Pension Bureau on the ground of the insufficiency of the evidence to show the incurrence of the disabilities upon which the same is founded in the military service of the United States.

We have somewhat examined the testimony on file in the claim and the additional testimony filed before this committee. We do not think that it warrants us in disturbing the action of the Bureau of Pensions, for the present, at least. Without passing further upon the merits of the case, we suggest that if there be a real disability shown from whatever cause, the soldier is entitled to relief under the general pension law passed at the present session. We therefore decline to consider further the question of a special bill for his relief and recommend the indefinite postponement of said bill.

O

51st Congress, 1st Session. | SENATE. | Report No. 1496.

IN THE SENATE OF THE UNITED STATES.

July 15, 1890.—Ordered to be printed.

Mr. Morrill, from the Committee on Finance, submitted the following

REPORT:

[To accompany H. R. 6104.]

The Committee on Finance, to whom was referred the bill (H. R. 6104) for the relief of Dr. Carl Rückert, respectfully report:

From affidavits taken under due form of law, it appears that Dr. Carl Rückert, a practicing physician of Coburg, Germany, bought in that city in December, 1868, a United States bond of the loan of March 3, 1864, due A. D. 1904, bearing interest at the rate of 5 per cent. per annum, said bond being for $1,000 and numbered 117042.

In the year 1871 he bought another United States bond of the sum of $1,000 of the loan of March 3, 1865, bearing interest at the rate of 6 per cent. per annum and numbered 198344.

The coupon sheets of these two bonds were detached, as is frequently done in Germany, as a safeguard against the dangers of fire or theft.

The bonds were kept in a separate box from the coupon sheets and in a different room. The coupon sheets were in an envelope in the writing-desk of claimant's wife. As the coupons became due from time to time they were detached from the sheets and paid at a bank in Coburg.

In November, 1875, claimant's wife cut off the coupons then due and had them cashed without his knowledge. She was ill at the time and soon after became insane and was confined in an asylum.

Claimant missed the coupons first in January, 1876, and his wife, still suffering from her malady, said she had burned them.

Claimant advertised his loss and notified the German minister at Washington, and found the coupons had not been presented, and the committee find that they have not been paid yet, as appears by the appended letter. The bill is guarded so that the Government can not possibly be called upon to pay the coupons the second time, and we recommend its passage.

Treasury Department, Office of the Secretary,
Washington, D. C., July 9, 1890.

Sir: I have the honor to acknowledge receipt of your letter of the 27th ultimo relative to House bill No. 6104 for the relief of Dr. Carl Rückert, and to inform you in reply thereto that no evidence relative to the destruction of the coupons described in the bill has been filed in this Department.

It appears from the records of the Register of the Treasury that coupons belonging to the 10-40 bond No. 117042 for $1,000, dated later than one which matured September 1, 1875, are still outstanding and unpaid, and that the coupons maturing after January 1, 1876, of the bond No. 198344 for $1,000, consols of 1865, are also outstanding and unpaid.

Respectfully yours,

W. WINDOM,
Secretary.

Hon. JUSTIN S. MORRILL,
U. S. Senate.

51st Congress, 1st Session. | SENATE. | Report No. 1497.

IN THE SENATE OF THE UNITED STATES.

July 15, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 3468.]

The Committee on Pensions, to whom was referred the bill (S. 3468) granting a pension to Thomas H. Fifield, have examined the same, and report:

Almira Fifield, of Indiana, a young lady about twenty-two years of age, applied at the Union Hospital in Paducah immediately after the battle of Shiloh for a place as hospital nurse. She was given charge of a ward of surgical cases and discharged her duty with great fidelity and with rare skill, being a graduate of the new England Female Medical College, a fact not known to the surgeon in charge at the time of her employment. After a year's service she was taken with a congestive chill and died after a very brief illness. The following extract from the book of Mrs. Hoge, "Boys in Blue," page 112, speaks of the nature of Miss Fifield's service:

[Extract from Mrs. A. H. Hoge's book, Boys in Blue, p. 112.]

After the battle of Pittsburgh Landing a slender, modest girl, petite in figure and of unusual beauty, made application to us for a place as hospital nurse. We said: "We can not send you, you are too young and too handsome for such a position." A flush passed over her face, almost severe in youthful beauty, as she said: "I am older than you suppose, and as to my curls I will cut them off, as that is the only way to get rid of them; they are obstinate." Her soft, blue eyes pleaded eloquently as she pleaded, "Pray let me go; I am willing and able. I dream of the hospital and know I could alleviate much suffering." "Have you ever nursed?" "Not continuously, but I have had a thorough medical education in an Eastern institution and understand the surgical dressing of wounds. You must not refuse me."

After consultation we agreed in this case to transcend our ordinary rules, and with many exactions gave her a detail, after telling her of the suspicion, hardships, and risk of health to which she would be exposed. She knew it all, had a relative who had been in hospitals, and his letters and tales of woe only inspired her with added determination. She left that night for Paducah Hospital, then filled to its utmost capacity with sick and wounded soldiers. From time to time we heard of her remarkable success. Then came a letter from the surgeon of the hospital praising her ability and wondering at her skill, so perceptible that he had placed her in charge of a ward of surgical cases that were improving rapidly, she still following our advice, burying in silence her medical education and degree.

After she had toiled a year without respite we were shocked to receive the following telegram from the surgeon: "Almira Fifield is dead; send for her body."

Investigation proved that overexertion and a malarious atmosphere had caused a congestive chill, which she had concealed as far as possible, fearing she might be sent home and obliged to leave her "boys," who clung to her for life, hope, and health. Want of rest and change induced a repetition of the attack, shattered the frail casket, and released the almost glorified spirit of this youthful martyr to liberty and humanity.

The father of Miss Fifield, a farmer of northern Indiana, at that time in moderate circumstances, has been greatly impoverished and is now entirely dependent upon others for support. He is now over eighty-seven years of age, his wife over seventy-two, and in very poor health.

The papers accompanying the case show the facts as stated, together with the service of Miss Fifield in the hospital.

The committee recommend that the bill be amended by inserting after the words "pension-rolls," in line 4, the words "subject to the provisions and limitations of the pension laws," and that with this amendment the bill do pass.

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51st Congress, 1st Session. | SENATE. | Report No. 1498.

IN THE SENATE OF THE UNITED STATES.

July 15, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 3549.]

The Committee on Pensions, to whom was referred the bill (S. 3549) granting an increase of pension to Mrs. Caroline Hanneman, widow of the late Julius R. Hanneman, first lieutenant in the Seventh Regiment New York Infantry, have examined the same and report:

That the claimant is the widow of the soldier above named, who died on the 28th of January, 1885, from disabilities incurred as a prisoner of war in the Confederate prison at Belle Isle, Virginia. The soldier himself was a pensioner at the time of his death. His widow has been since that time a pensioner, and now is such pensioner at the rate of $8 per month.

The soldier at the time of the incurrence of the disability held the rank of corporal in his company but was afterwards promoted to be first lieutenant and adjutant of the regiment, in which latter rank he served until June 24, 1864, when he was honorably discharged on account of the result of disabilities incurred in the service.

When the widow was pensioned, she was pensioned as the widow of a corporal, her husband having held that rank at the time of the incurrence of the disabilities although at the time of his discharge he was a first lieutenant and acting adjutant of his regiment, as above stated.

The application of the widow for increase upon account of the rank in promotion of her husband and his service in such rank is not admissible under the general law or rule governing the Bureau of Pensions, which is that the widow of a soldier shall be entitled only to such pension as may be due to her in the rank which her deceased husband held at the time of the incurrence of the disabilities, which in this case would be that of corporal, and entitles her to $8 a month, the pension she is now receiving.

The applicant claims that her pension ought to be increased to the sum of $17 per month, that being the amount of pension due to the widow of a first lieutenant, in which rank her husband served after his promotion and up to the time of his discharge.

There is very strong equity in this claim; the fact that the husband was paid and actually served in the higher ranks of promotion, as stated. We favor the consideration of this circumstance with others in the case, but we prefer to put the increase upon other grounds rather than to interfere with the general rule of the law upon that subject.

The widow is now a resident of Washington City, where she and her husband resided at the time of his death. It appears from the evidence

that she is forty-three years old; that she is in feeble and broken health; that she has no property or means of support; that she is not able to do anything except very light needle-work part of the time, and she is dependent upon the charity of her friends for support. We think, under these circumstances, there ought to be an increase of pension. Eight dollars per month is not sufficient for the sustenance of a woman in such condition.

In consideration of the rank and service of her deceased husband and of the poor condition in which she herself is with respect to health and property, we recommend the passage of the bill with the following amendment: Strike out "seventeen" in line 8, and insert "fifteen."

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51st Congress, 1st Session. | SENATE. | Report No. 1499.

IN THE SENATE OF THE UNITED STATES.

July 15, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4427.]

The Committee on Pensions, to whom was referred the bill granting a pension to Mary E. Boeke, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended, with the following amendment: Strike out the letter "r" in the word "Borke" wherever it occurs in said bill and title, and insert the letter "e".

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4427) granting a pension to Mary E. Borke, submit the following report:

This woman was a pensioner of the Government until 1886, when her name was dropped from the roll on the ground that she was guilty of adultery since the death of the soldier, and that a child was born as the fruit of such act. There is now in the record the testimony of several of her neighbors who swear that prior to this act of adultery and since her character for chasity was and is good, and she has expressed great regret at her own conduct, and that since the birth of said child she has kept no company with any male person, and she is now living a virtuous and honorable life. The witnesses further testify that her health is very poor and without means of a livelihood except her own labor, and that she is unable to labor.

The committee recommend that the bill do pass, and let the man who is without sin cast the first stone.

51st Congress, 1st Session. | SENATE. | Report No. 1500.

IN THE SENATE OF THE UNITED STATES.

JULY 15, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 2574.]

The Committee on Pensions, to whom was referred the bill (S. 2574) granting a pension to Benjamin F. Brown, have examined the same and report:

Benjamin F. Brown was a second lieutenant of the First Regiment United States Sharpshooters, serving nearly two years in the late war. He is now an inmate of the Lunatic Hospital at Worcester, Mass., with no prospect of recovery according to the statement of Dr. Park, the superintendent of that institution. There is appended a copy of a report made to Mrs. Brown of her husband's condition in December last. The lady is blind and has been so for several years. Their property is gone and the case appeals strongly for favorable action. A copy of the soldier's service is attached hereto, which shows the excellent record which he made and also that he was discharged because of disability. The claim was rejected by the Pension Office on the ground of insufficient testimony as to continuance of disease since discharge. General Berdan, who commanded the regiment in which Mr. Brown served, bears testimony to the soldier's excellent character, to his illness while in the service, and to the probability of the incurrence of sunstroke while in the line of duty.

In view of the strong testimony filed in this case before the Pension Office and of the recommendation of the board of surgeons of that office by whom the claimant was examined, your committee report the bill favorably.

THE WORCESTER LUNATIC HOSPITAL,
Worcester, Mass., December 10, 1889.

DEAR MADAM: Mr. B. F. Brown is suffering from paralysis. He walks about with great difficulty and his speech is so much affected that it is almost impossible to understand him when he talks. He is delusional and at times considerably excited. He was committed to this hospital from Newton, October 31, 1887, then said to be twelve years insane.

Very respectfully,

T. G. PARK,
Superintendent.

Mrs. B. F. BROWN,
Newton Highlands, Mass.

NEWTON HIGHLANDS, MASS., *December* 9, 1889.

To whom it may concern:

This will certify that Mrs. B. F. Brown is a resident of this parish, and known by myself and all her neighbors to be blind, an affliction of several years' standing.

GEO. G. PHIPPS,
Pastor of Congregational Church.

I hereby certify that I have been acquainted with Mrs. B. F. Brown, of Newton Highlands, Mass., for about six years past, and have known her to have been blind during that time.

J. D. LOVERING, M. D.

NEWTON, MASS., *December* 9, 1889.

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161 BEACON STREET,
Boston, December 7, 1889.

I certify that I have known Mrs. B. F. Brown since May, 1882, and that she was blind at that time and has been whenever I have seen her since.

JOHN HOMANS, M. D.

STATE OF NEW HAMPSHIRE, ADJUTANT-GENERAL'S OFFICE,
Concord, October 16, 1889.

I certify that the official records of this office show that Benjamin F. Brown enlisted on the 9th day of September, 1861, and was mustered into the service of the United States as a corporal in Company E, First Regiment United States Sharpshooters, New Hampshire Volunteers, on the 9th day of September, 1861, for the period of three years.

He is also officially reported as having been promoted to sergeant; to sergeant-major, October 3, 1862; to second lieutenant, March 18, 1863; and honorably discharged for disability August 18, 1863.

A. D. AYLING,
Adjutant-General.

50TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1501.

IN THE SENATE OF THE UNITED STATES.

JULY 15, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2128.]

The Committee on Pensions, to whom was referred the bill granting a pension to Mrs. Zelinda Hill, have examined the same, and report:

The report made by the House committee is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2128) granting a pension to Zelinda Hill, submit the following report:

Zelinda Hill is the mother of George B. Hill, late a private in Company A, Fifty-ninth Massachusetts, and in Company A, Fifty-seventh Massachusetts. He enlisted December 5, 1863, at the age of seventeen, and was mustered out July 30, 1865. He died March 6, 1873, and affidavits are on file with the committee from Dr. Isaac F. Galloupe, at present a member of the Lynn board of examining surgeons, and from Dr. John O. Webster, both of whom attended him during his illness, to the effect that the disease of the liver from which he died no doubt originated during his service in the war.

Although it was known that he was fatally ill, he was married February 9, 1873, less than a month before his death, and at his own request. His widow, Susan E. Hill, applied for a pension, but never pushed the claim, and has since remarried. The mother also applied for a pension, but has never received one as the widow was still alive. She now asks for a pension by special act. Affidavits are on file to the effect that she is over seventy-four years of age and a widow, that she was dependent on her son for her means of support, and that her only resources now are the State aid which she receives, to the amount of $4 a month. She lives with her daughter, a confirmed invalid, and is herself under medical treatment.

Your committee recommend the passage of this bill.

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51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1502.

IN THE SENATE OF THE UNITED STATES.

JULY 15, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 3948.]

The Committee on Pensions, to whom was referred the bill granting a pension to Morris Leavey, have examined the same, and report:

Morris Leavey served as a private from February 11, 1862, to May 25, 1863, in Company I, First New York Volunteers, and from July 25, 1863, to September 12, 1865, as sergeant in Company D, Eighteenth New York Cavalry. At Sabine Cross-Roads, in April, 1864, he was shot in the right leg and stabbed near the spine and right side. For these disabilities he was pensioned at $8 per month from September, 1865, to June, 1866; at $20 from then till June, 1872; at $24 from then till October, 1879; and at $72 from that date. The man is pensioned at the highest rate possible under the general law.

After a careful examination of the papers in this case your committee are of the opinion that the claim is of special merit, and believe an increase to $100 per month, the usual amount in these extreme cases is fully justified by the evidence filed and attached hereto. The bill is reported favorably with an amendment, and as amended its passage recommended.

General affidavit.

District of Columbia, ss:

In the matter of pension claim of Morris Lewis, alias Leavey, Company D, 18th New York Cavalry.

Personally came before me, a notary public, in and for aforesaid District of Columbia Morris Leavey, citizen of the town of Washington, D. C., well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to aforesaid case as follows:

While in a hand-to-hand fight with the enemies' cavalry at Sabine Cross-Roads, Louisiana, in April, 1864, I was stabbed in the back near the spine and near my right side, and received a gunshot wound in my right leg. About that time the enemy charged upon us, I was taken prisoner, and kept in prison fifteen months, much of the time in the stockades exposed to the hot sun and storms, where I suffered fearfully from exposure and neglect. As a result of the wounds and exposure I have not walked in almost twenty-five years, and I became paralyzed from my breast to my feet. The only way I can be moved is by being strapped into my wheeling-chair. I am in misery at all times. It is so great that daily I have to inject at least 15 grains of morphine to ease the pains. My condition requires a nurse day and night, which costs me $50 per month, with board for nurse, and to apply the necessary treatment with electricity and baths. I have to be lifted on and off my bed. I can not lie down, and have to sit up day and night. I keep an attendant by the day, which costs with board about $50 per month. I have one or two family physicians who prescribe a great deal of medicine, which is very expensive. My wife took care of me until her health broke

down, worn out. She is to-day a total wreck owing to her care and attention devoted to me. I have spent all my means, all that I could control, for medical aid in America and Europe, without relief. I have been gradually growing worse. I am advised that I can not live many years in this condition. I make an appeal to Congress to be pensioned at $200 per month, to provide for my necessities while I live. I am now pensioned at $72 per month.

MORRIS LEWIS alias LEAVAY.

Sworn to and subscribed before me this day by the above-named affiant; and I certify that I read said affidavit to said affiant, and acquainted him with its contents before he executed the same. I further certify that I am in nowise interested in said case, nor am I concerned in its prosecution; and that said affiant is personally known to me; that he is a creditable person and so reputed in the community in which he resides.

Witness my hand and official seal this 13th day of June, 1890.

[SEAL.] MYER COHEN,
Notary Public, District of Columbia.

Physician's affidavit.

DISTRICT OF COLUMBIA, *ss*:

In the pension claim No.—— of Morris Lewis alias Leavey, late of Company D, Eighteenth New York Cavalry.

Personally came before me, a notary public in and for the aforesaid District of Columbia, J. W. Bayne, M. D., a citizen of Washington, D. C., well known to me to be reputable and entitled to credit, and who being duly sworn, declares in relation to the aforesaid case as follows:

That he is a practicing physician, and that he has been acquainted with said soldier for about five years, and that during that period I have frequently been called upon to render professional services to Captain Morris Leavey. He is suffering from complete paraplegia, which extends from the middle of the trunk to the toes. The muscles of the bladder are paralyzed so that he has constantly to be relieved by catheterization. His bowels are in the same condition, only acting mechanically. These injuries are the result of wounds of the back received during his military services in the United States Army. His sufferings at times are terrible, and can only be relieved by the most powerful narcotics. His treatment is only palliative, with no hope of cure. The principal treatment which is adopted for him, viz, massage, electricity, catheterization, and emptying the bowels, require the constant attention of a trained and skilled nurse, which he has had ever since I have known him. It is also necessary in his treatment that he should have as much fresh air as possible. To procure this he is constantly attended by his son. All this involves a large amount of expense, which is indispensable, and without which he could not live. The disability is total.

He further declares that he has been a practitioner of medicine for twenty-two years, and that he has no interest, either direct or indirect, in the prosecution of this claim.

JOHN W. BAYNE,
Late A. A. Surg., U. S. Army.

Sworn to and subscribed before me this 12th day of June, A. D. 1890, and I hereby certify that the affiant is a practicing physician in good professional standing; that the contents of the above declaration, etc., were fully made known to him before swearing; and that I have no interest, direct or indirect, in the prosecution of this claim.

[SEAL.] JAS. A. TAIT,
Notary Public.

Physician's affidavit.

DISTRICT OF COLUMBIA, *ss*.

In the pension claim certificate No.——, of Morris Lewis, alias Leavey, late of Company D, Eighteenth New York Cavalry.

Personally came before me, a notary public in and for the aforesaid District of Columbia, Adajah Behrend, a citizen of Washington, D. C., well known to me to be reputable and entitled to credit, and who, being duly sworn, declares in relation to the aforesaid case as follows:

That he is a practicing physician, and that he has been acquainted with said soldier

for about —— years, and that he has had professional knowledge of his condition beginning ——. Have been personally acquainted with Morris Leavey for about twoy ears. He suffers from complete paraplegia, in my opinion incurable. His condition is heart-rending. I have attended him off and on for the last two years for this condition. I did not know him prior to my attention. He needs constant attention of a nurse, that is, night and day. The paralysis includes his bowels, and everything below his stomach is paralyzed.

He further declares that he has been a practitioner of medicine for twenty-six years, and that he has no interest, either direct or indirect, in the prosecution of this claim.

ADAJAH BEHREND, M. D.,
Late Hospital Steward U. S. A.

Sworn to and subscribed before me this 3d day of June, A. D. 1890, and I hereby certify that the affiant is a practicing physician in good professional standing; that the contents of the above declaration, etc., were fully made known to him before swearing, and that I have no interest, direct or indirect, in the prosecution of this claim.

[SEAL.]

MYER COHEN,
Notary Public.

JUNE 19, 1890.

DEAR SIR: I am at present in debt to Dr. J. W. Bayne the sum of $150 for the last few months, and Dr. Behrend I owe also some money. I can not tell how much; I paid him a bill six months ago. My medicine bill is very heavy. It cost me about from $18 to $20 per month, not including instruments which I use; for instance, I use the silk catheter to draw my urine. They cost me 75 cents each. I need two a week. Have been using them for the past fifteen years. Then comes the syringes for the bladder and bowels, which cost me $15 to $20 per year. A large physician's battery cost me $50. I use a great deal of rubber goods in my condition, which are very expensive.

Yours, very respectfully,

MORRIS LEAVEY,
810 *Fifth Street Northwest.*

J. F. VINAL, Esq.
Washington, D. C.

51st Congress, 1st Session. | SENATE. | Report No. 1503.

IN THE SENATE OF THE UNITED STATES.

July 15, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 626.]

The Committee on Pensions, to whom was referred the bill granting a pension to Mary E. Williams, have examined the same and report:

Mary E. Williams claims pension as the widow of Edward Palmer, late a private Company G, Thirty-sixth Massachusetts Volunteers. She drew a pension as above soldier's widow from the time of his death until her remarriage to Williams, when the pension legally terminated. Her second husband proved to be a criminal and is now serving his second term in the State prison for arson. The decree of divorce filed with the papers at the Pension Office in favor of Mrs. Williams is absolute and gives her the custody of their only child. She married Williams in 1874; was divorced from him in 1887. Her feeble condition, dependence on her own labor for her support are shown. The case has much merit, and in view of the testimony hereto attached your committee recommend the passage of the bill as amended.

To the honorable the Senate and House of Representatives:

We, the undersigned citizens of Clinton, Worcester County, Mass., respectfully represent that we are acquainted with Mrs. Mary E. Williams, of Clinton, whose husband was a soldier in the late war; her husband's name was Edward Palmer; that she is now in needy circumstances and we request that she may be granted a pension, to which she is by right and justice entitled.

Clinton, January 10, 1890.

J. G. Crawford, *Attorney.*
Lucius Field, *Senator, Second Worcester District.*
Henry C. Greeley, *Ex-Senator and ex-Councillor.*
W. B. Toulwin, *Pastor M. E. Church, Clinton, Mass.*

I know the signers of the inclosed and that they are men of high character.

Respectfully,

Geo. F. Hoar,
By T. H. Gage.

In the matter of application for pension of Mrs. Mary E. Williams, of Clinton, Mass. (for re-instatement).

To the honorable the Committee on Pensions of the Senate of the United States:

Mrs. Mary E. Williams, of Clinton, Mass., being duly sworn, deposes and says as follows:

My full name is Mary E. Williams. My residence is Clinton, in the county of Worcester, and Commonwealth of Massachusetts. My age is forty-five. I formerly

drew a pension as a widow of soldier under No. 133066, said number being the number of my certificate. June 10, 1874, I was married to John D. Williams. Some three years and a half afterwards he was sentenced to State's prison for the crime of arson for the term of twelve years. He served nine years at Charlestown (and part of the time at Concord) prisons. John D. Williams was at large some two years, and was again convicted of arson and sentenced to seven years' imprisonment. He is now in Charlestown State prison. I obtained a divorce from John D. Williams, the decree being made absolute by the superior court for said county of Worcester on the 25th day of October, A. D. 1887. I have one child by said John D. Williams, by name Dora E. Williams, born August 1, 1878. I am in poor health, and have been for some years. I am wholly unable to do any work requiring severe effort, or any work except of the lightest, and that only a part of the time. I have no means, and no way of supporting myself and child of eleven years, before spoken of, except the little money I can earn by the occasional light work I can do, and am in straitened circumstances; and I would respectfully apply for a pension, or for my re-instatement under my former pension as above shown.

MARY E. WILLIAMS.

WORCESTER, *ss.*, *May 29th*, 1890.

Subscribed and sworn to this day before me.
[SEAL.]

EDMOND A. EVANS,
Notary Public.

In the matter of application for pension of Mrs. Mary E. Williams, of Clinton, Mass.

To the honorable the Committee on Pensions of the Senate of the United States:

Edward A. Barnard, of Clinton, in the county of Worcester and Commonwealth of Massachusetts, being duly sworn, deposes and says as follows:

I know Mary E. Williams, of Clinton, aforesaid. I have known her for twenty-five years. I know that she has no means and that her only support for herself and one child of eleven years is what she can earn by the occasional work which her health permits her to do, I know that she is in poor health and unable to work at all for a considerable portion of the year. I knew of her marriage to John D. Williams, and of his subsequent sentence to prison for arson. He is now confined in Charlestown prison.

I know that Mrs. Williams has been able to earn but little lately and in my best judgment will be able to earn less in the near future.

EDWARD A. BARNARD.

WORCESTER, *ss.*, *May 27th A. D.* 1890.

Subscribed and sworn to this day before me.
[SEAL.]

EDMOND A. EVANS,
Notary Public.

In the matter of application for pension of Mrs. Mary E. Williams, of Clinton, Mass.

To the honorable the Committee on Pensions of the Senate of the United States:

Edward T. Todd, of Clinton, in the county of Worcester and Commonwealth of Massachusetts, being duly sworn, deposes and says as follows:

I know Mary E. Williams, of Clinton, Mass., and have known her for the last thirty years. As to her present circumstances she has nothing except what little she can earn, but she is in poor health, and not able to do much, or to work at all a great deal of the time. She has one child by her last husband, which child is eleven years old. Mary E. Williams was married to John D. Williams about fifteen years ago. He was convicted of the crime of arson soon afterwards, and was sentenced for twelve years in Charlestown State's prison, of which term he served nine years when he was released. He remained at liberty about two years when he was convicted of the same crime of arson, and was sentenced to a term of seven years in the same Charlestown prison. He is now serving his sentence in said prison.

EDWARD T. TODD.

WORCESTER, *ss.*, *May 26th, A. D.* 1890.

Subscribed and sworn to this day before me.
[SEAL.]

EDMOND A. EVANS,
Notary Public.

In the matter of application for pension of Mrs. Mary E. Williams, of Clinton, Mass.

To the honorable the Committee on Pensions of the Senate of the United States:

Philip T. O'Brien, M. D., of Clinton, in the county of Worcester and Commonwealth of Massachusetts, being duly sworn, deposes and says as follows: I know Mary E. Williams, of Clinton, Mass., and have attended her professionally. She is in a feeble condition and incapacitated from any manual labor except some occasional light employment.

She suffers and has suffered for some years from a uterine affection. I have attended her professionally at various times during the last eight years.

PHILIP T. O'BRIEN, *M. D.*

WORCESTER, *ss.*, *May* 30, *A. D.* 1890.

Subscribed and sworn to this day before me.
[SEAL.]

EDMOND A. EVANS,
Notary Public.

51st Congress, 1st Session. | SENATE. | Report No. 1504.

IN THE SENATE OF THE UNITED STATES.

July 15, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 3431.]

The Committee on Pensions, to whom was referred the bill (S. 3431) granting a pension to Martha N. Hudson, have examined the same and report:

Martha N. Hudson is the widow of Lieut. Col. James Hudson, of the Eighth Massachusetts Volunteers. Colonel Hudson died in 1869. In 1870 Mrs. Hudson married again, one Joseph Chipman, by whom she was deserted in 1874, and from whom she obtained a decree of divorce in 1881. Chipman died in 1882. By this second marriage she forfeited her right to pension under the general law. She has supported herself by her own labor since her husband's desertion, sixteen years ago, but now finds herself unable longer so to do, owing to increasing weakness and age.

Mrs. Hudson's petition, certificates showing each of her marriages, her divorce from Chipman, and the death of each husband, are hereto attached.

She is now about sixty years of age, dependent for support upon others, especially her brother, who is not able to assume the extra responsibility in addition to that imposed by his own family.

In view of these facts and Colonel Hudson's meritorious services, your committee report the bill favorably and recommend its passage.

State of Massachusetts, *County of Suffolk, ss:*

I, Martha N. Hudson, of Charlestown, in said county, under oath depose and say I was married to James Hudson, jr., at Lynn, Massachusetts, in January, 1854. He was Capt. of Co. F, 8th Regiment Mass. Vol. He answered to the first call for troops in 1861, and served as Capt. of said Co. for three months. He was stationed at Annapolis and at the Relay House, Md., also at Washington, D. C. In November, 1862, he was appointd Lieut. Col. of the same Regt., and with his command served nine months. He was stationed at New Berne, N. C. Upon his arrival home in July, 1863, he was sick with malarial fever and chills, and for several weeks kept his room and bed. He was sick a great deal of the time after he left the service in 1863 until his death in April, 1869. In 1870 I married Joseph Chipman, of Beverly, Massachusetts, who served in Capt. Porter's Co., unattached infantry, in July, 1864, for 100 days. I obtained a divorce from him for non-support in 1878. He was run over and killed by the cars at Beverly, Mass., in 1882. Ever since the death of Col. Hudson I have supported myself by manual labor, though at times wholly unable, owing to the feeble condition of my health. I am now wholly dependent upon charity, as my health is so poor I am unable to earn anything, to be relieved from which I shall ever pray and ask your honorable body to afford me that relief. Col. Hudson's health was so impaired while in the service of the U. S. that he was unable to properly attend to his

business up to his death. He left but a little property for my support, which was all used up in two years. I am 58 years old, was born in Salem, Mass., Essex County. My maiden name was Martha N. Kenney.

MARTHA N. HUDSON.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss:*

BOSTON, *March 19th*, 1890.

Then personally appeared the above-named Martha N. Hudson, to me personally known, and made oath to the truth of all the statements in the foregoing affidavit, including the eight interlined words on this page.

Before me,

ABNER C. GOODELL, JR.,
Justice of the Peace for Essex County,
Duly authorized to administer oaths in said county of Suffolk.

COMMONWEALTH OF MASSACHUSETTS,
Secretary's Department, Boston, March 19, 1890.

I hereby certify that at the date of the attestation hereto annexed, Abner C. Goodell, jr., was a justice of the peace for the said Commonwealth, duly commissioned and constituted; that to his acts and attestations, as such, full faith and credit are and ought to be given, in and out of court; that I believe his signature to be genuine; and that said justice of the peace is by law authorized to take depositions, administer oaths, and take acknowledgments of deeds and other instruments throughout the Commonwealth.

In testimony of which I have hereunto affixed the seal of the Commonwealth the date first above written.

[SEAL.]

HENRY B. PEIRCE.
Secretary of the Commonwealth.

COMMONWEALTH OF MASSACHUSETTS,
City of Lynn, March 5, 1890.

I, Chas. E. Parsons, hereby certify that it appears by the record of marriages in said Lynn, that a marriage was solemnized in said Lynn between James Hudson, jr., and Martha N. Kenney, on the eleventh day of January, in the year eighteen hundred and fifty-four.

The record is in the following words and figures, to-wit: Date of marriage, January 11, 1854; name and surname of groom, James Hudson, jr.; name and surname of bride, Martha N. Kenney; by whom married, E. Winchester Reynolds, clergyman.

I, Chas. E. Parsons, above named, depose and say, that I hold the office of city clerk, of the city of Lynn, in the county of Essex, and Commonwealth of Massachusetts; that the records of births, marriages and deaths, in said city, are in my custody, and that the above is a true extract from the records of marriages, in said city, as certified by me.

Witness my hand and the seal of the said city of Lynn, on the day and year first above written.

[SEAL]

CHAS. E. PARSONS,
City Clerk.

NOTE.—By a decision of the Commissioner of Pensions, December 6, 1864, these certificates need not be sworn to. The seal of a city is sufficient, without further attestation.

COMMONWEALTH OF MASSACHUSETTS,
City of Lynn, March 5, 1890.

I, Chas. E. Parsons, hereby certify that it appears by the record of deaths in said Lynn, James Hudson, jr., died in said Lynn on the eighth day of April, in the year eighteen hundred and sixty-nine.

The record is in the following words and figures, to wit: Date of death, April 8, 1869; name and surname of deceased, James Hudson, jr.; name and surname of father, Isaac O. Hudson; name and surname of mother, Louisiana Hudson: by whom registered, Benj. H. Jones, city clerk.

I, Chas. E. Parsons, above named, depose and say, that I hold the office of city clerk, of the city of Lynn, in the county of Essex, and Commonwealth of Massachusetts; that the records of births, marriages, and deaths in said city are in my custody, and that the above is a true extract from the records of deaths in said city, as certified by me.

Witness my hand and the seal of the city of Lynn, on the day and year first above written.

[SEAL.]

CHAS. E. PARSONS,
City Clerk.

COMMONWEALTH OF MASSACHUSETTS,
Town of Beverly, March 5, 1890.

I, William H. Lovett, hereby certify that it appears by the Record of Marriages in said Beverly, that a marriage was solemnized in said Beverly, between Joseph Chipman and Martha A. Hudson, m n Kenney, on the twelfth day of June, in the year eighteen hundred and seventy.

The record is in the following words and figures, to wit: Date of marriage, June 12, 1870; name and surname of groom, Joseph Chipman; name and surname of bride, Martha A. Hudson, m n Kenney; by whom married, G. W. Whitney, pastor Universalist church.

I, William H. Lovett, above named, depose and say, that I hold the office of town clerk of the town of Beverly, in the county of Essex, and Commonwealth of Massachusetts; that the records of births, marriages, and deaths, in said town are in my custody, and that the above is a true extract from the records of marriages, in said town, as certified by me.

WILLIAM H. LOVETT, *Town Clerk.*

MARCH 5, 1890.

ESSEX, *ss:*

Subscribed and sworn to before me this day; and I certify that I am not interested herein.

JOHN M. MURNEY,
Justice of the Peace.

COMMONWEALTH OF MASSACHUSETTS, *Essex, ss:*

At the supreme judicial court, begun and holden at Salem, within and for the County of Essex, on the first Tuesday of November, in the year of our Lord one thousand eight hundred and eighty-one.

Martha N. Chipman, of Salem, in the county of Essex, shows that she is the wife of Joseph Chipman, now resident at Beverly, in said county, and that she was lawfully married to said Joseph on the eleventh day of June, A. D. 1870, at said Beverly, and that she and her said husband lived together as husband and wife at said Beverly, and at Lynn, in said county, until the month of April, A. D. 1874, at which time said Joseph utterly and willfully deserted the libellant, without cause and against her will, and has continued such desertion ever since and until this date, being more than three consecutive years; and she also shows that during said time since April, 1874, and before that date, said Joseph being of sufficient ability, has wantonly and cruelly neglected and refused to furnish the libellant with sufficient or any maintenance.

Wherefore the libellant prays for a divorce from the bonds of matrimony between her and her said husband, and that said Joseph may be decreed to pay her sufficient and suitable alimony, as well pending this suit as subsequently, for her comfortable support, and that the goods and estate of said Joseph may be attached to the amount and value of five thousand dollars, as security for the payment of such alimony and the enforcement of such other decrees as may be made in the premises.

This libel was entered at April term, 1878, when it appeared to the court that all proceedings required by law had been had upon the same. And the said Joseph Chipman, although solemnly called to come into court and show cause why the prayer of said libellant should not be granted, did not appear but made default. And the evidence adduced in support of said libel having been heard and understood, the court were of the opinion that the material facts, therin alleged, were satisfactorily proved. *It was therefore considered and decreed nisi*, by the court, that the bonds of matrimony theretofore entered into between the said Martha N. Chipman and the said Joseph Chipman for the desertion of the said Joseph be dissolved; the decree to be made absolute, on motion, after the expiration of six months from the first publication thereof, upon compliance with the terms thereof, unless sufficient cause to the contrary should appear. And now the said period of six months having expired, and it being made to appear that the said libellant has complied with the terms of said decree, and no cause to the contrary appearing, it is considered by the court here that the decree aforesaid be made absolute; of which all persons interested are to take notice and govern themselves accordingly.

The foregoing is a true copy of record.

In testimony whereof I hereunto set my hand and affix the seal of said court on this fifteenth day of March, A. D. 1890.

Attest.

[SEAL.] EZRA L. WOODBURY,
Asst. Clerk.

COMMONWEALTH OF MASSACHUSETTS,
Town of Beverly, March 5, 1890.

I, William H. Lovett, hereby certify that it appears by the record of deaths in said Beverly, that Joseph Chipman died in said Beverly, on the eleventh day of October, in the year eighteen hundred and eighty-two.

The record is in the following words and figures, to wit: Date of death, October 11, 1882; name and surname of deceased, Joseph Chipman; name and surname of father, John H. Chipman; name and surname of mother, Elizabeth Chipman (Hill); by whom registered, William H. Lovett, town clerk.

I, William H. Lovett, above named, depose and say, that I hold the office of town clerk of the town of Beverly, in the county of Essex, and Commonwealth of Massachusetts; that the records of births, marriages, and deaths, in said town are in my custody, and that the above is a true extract from the records of deaths in said town, as certified by me.

WILLIAM H. LOVETT, *Town Clerk.*

MARCH 5, 1890.

ESSEX, *ss:*

Subscribed and sworn to before me this day; and I certify that I am not interested herein.

JOHN M. MURNEY,
Justice of the Peace.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1505.

IN THE SENATE OF THE UNITED STATES.

JULY 15, 1890.—Ordered to be printed.

Mr. HIGGINS, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 3269.]

The Committee on Claims, to whom was referred the bill (S. 3269) for the relief of the administratrix of the estate of George W. Lawrence, have considered the same, and respectfully report:

George W. Lawrence, on the 3d day of November, 1863, entered into a contract with the United States for the construction of the hull and machinery of the light draught monitor *Wassuc*. The contract was fully complied with on his part, and his work was duly accepted by the Government on the 1st day of December, 1865. Before the agreement was entered into the Government satisfied itself that he had the necessary facilities, and the delay in the completion of the vessel was due, in some measure, to the action of the Government in delaying the work and in ordering changes and alterations. The bill under consideration is specific in directing the Court of Claims to ascertain how much of the delay is due to the action of the Government.

Your committee is satisfied that of the whole class of light-draught monitors the following may safely be said:

In the winter and spring of 1863 the Navy Department prepared plans and drawings for light-draught steam iron-clad monitors (twenty in number), with specifications showing the dimensions, kind, and thickness of the plating, and submitted the same to various contractors for proposals for construction.

The time required in the construction was a material element in the contract, and none were made for a period longer than eight months. Some of the contracts were limited to six months. So material was the matter of time considered that in the contracts made for six months the contractors were to receive $395,000, while those whose contracts extended to eight months for completion were only to receive $386,000, or at the rate of $4,500 per month less, but there was a provision in all contracts then made that if the vessels were completed in less time than provided in the contract, the contractor was to receive an additional pay of $4,500 per month, and if the completion was delayed beyond the period named, the Government was to deduct from the contract price at the same rate—that is, $4,500 per month.

Having accepted the undertaking to build these vessels, the several parties made their arrangements accordingly, having the yards, machinery, etc., necessary therefor, and entered into contracts for the necessary materials, based upon the contracts with the Government, and commenced the work on the several vessels named. About this time Chief Engineer of the Navy Stimers, having returned from Charles-

ton, where he had been sent to make observations as to the conduct of Ericsson's monitors in battle, a consultation was had at the Navy Department, in which (quoting from Stimer's evidence)—

The matter was discussed as to whether we had better build our vessels in strict accordance with the letter of the contracts which we were giving out, without any change whatever, or had better take advantage of every such fight and make improvements as we went along, although we fully appreciated that it would delay their completion and add to their cost. Assistant Secretary Fox made the remark that he thought following this course would probably entail an extra cost of a million of dollars for each battle where the monitors were engaged.

Well, it was decided that that course should be followed. The contracts for the light-draught monitors, of which the *Etlah* was one, had already been drawn, specifications, general drawings, etc., of the original plans, but we went immediately to work to make changes on them in accordance with what I have already explained as the policy to be pursued. You will understand, therefore, why it was that I should send constant instruction to Mr. McCord, directing him to make his vessels different from what he had contracted to do; why I sent him drawings that differed from those specified in the contract. You will find, too, that these might be very material, as they certainly were. The acts, therefore, which I performed, which affected Mr. McCord and affect this case, were to direct him to make a different vessel from the one he contracted to do.

Acting upon this theory the Department commenced forwarding to the contractors orders for changes and drawings before even the keel was laid, and those changes, which in the aggregate affected all parts of the vessel, making in the end almost entirely different vessels, were continued, and the drawings furnished therefor for nearly a year and a half after the time specified in the contract for their completion had elapsed, and from the 23d of June, 1864, for about the period of three months, work was suspended altogether upon these vessels, by the orders of the Navy Department, which had then in contemplation some general changes in their construction which required time to perfect. All of this time, however, the contractors were under heavy expenses for the maintenance of the yards and men, whom they dared not discharge for fear of inability to supply their places and not knowing on what day their services would be required.

In addition to all this the prices of labor and materials required for the work, and for which the contractors had made provision during the time of the contracts, rapidly advanced, so that, as found by the Committee on War Claims of the first session of the Forty-third Congress, iron, that at the date of the contracts was worth $65 per ton, advanced during the prolonged time to $220 per ton, and labor from $2.50 per day to $4 per day.

This committee have not, however, considered it necessary to investigate the details as to amounts or percentage of such increase of prices, but are convinced that the cost of the work was greatly enhanced by reason of the delay caused by the course adopted by the Government in these changes and alterations from the original plans.

Chief Engineer Stimers, in his evidence in McCord's case, states the case as understood by him and presumably by the Department, which had no authority to adjust claims for damages, as follows:

Before expressing an opinion on the matter as an expert, I must explain that the principles upon which the contractors of this, and the contractors of similar vessels, were to be paid were settled upon before I left the office, and I have always understood that these principles were adhered to, and they were as follows: That we should pay for the contract work by making the contract payments, or the payments provided for in the contract; that we should pay for alterations and changes a proper sum as might be agreed upon between the Government and the contractors at current rates. Now, that being the case, I consider that the Government is still indebted to the contractors of the *Etlah*, because, although the original contract work has been paid for as originally agreed upon, and the extra work may have been paid for *per se*,

the fact of calling upon the contractor to make the changes on his vessel, and his compliance with those demands, delayed him in the execution of the original contract work. This delay compelled him to pay the increased rates for labor and material which obtained at the time when the work was actually performed; and although the contractor took the risk of a rise in prices when he signed his contract, it was only for a risk during the period of his contract, or the period he would have required to perform the work if the Government had not delayed him by their direct interference. Now, whatever increase there was in the cost of the original work contemplated by the contract, due to the delay caused by the Government, that increase is now due, as there has been no pretense on the part of the officers of the Government to have paid it. If you will determine the increased cost of material and labor of the original contract work during the extent of time when the contract was delayed by an interference of the Government to execute it, you will have, in my judgment, the indebtedness of the Government. There may be very large claims on account of extra work of which I know nothing.

There seems to be no question that but for the interference of the Government these vessels would have been completed within the time specified in the contract; that these contractors had the means and the ability to do so, and that the heavy losses sustained by reason of the interference of the Government could not have been prevented by any reasonable prudence or foresight on their part, as the labor could not be anticipated, nor could they possibly know, from the frequent changes being made, the kind, quantity, or, in the case of the iron plating, the thickness or size of the plates to be used. The question of the duty of the Government to relieve the contractors for the building of these vessels has been repeatedly recognized by committees of both Houses of Congress. (Slone, Report No. 17, Thirty-ninth Congress, second session; Senator Nye, Report No. 45, Thirty-ninth Congress, first session; Senator Drake, Report No. 163, Forty-first Congress, second session; Senator Nye, Report No. 37, Forty-second Congress, second session; A. B. Smith, Report No. 36, Forty-second Congress, third session; Senator Cragin, Report No. 124, Forty-third Congress, first session; Senator Hoar, Report No. 14, Forty-seventh Congress, first esssion.)

The frequent changes and alterations ordered by the Department on these vessels, and which, under the contracts, the Government had a right to demand by paying the extra expense caused thereby, occasioned a large amount of extra work, some of which was specifically agreed upon and part of which was done under the orders of the Department without any agreed price. Only the extra work was recognized as being within the jurisdiction of the Department to pay, and the Department did pay a large portion of said extras, but did not pay all that the parties were entitled to receive.

The accounts were made up in the Department without consultation with the claimants, and payments made from time to time until the last and final payment, when a voucher containing the words, "For work done which is extra to the contract, being the full and final payment on all extras, and in full for all claims and demands for that work," was presented, and which was required to be and was receipted by the claimant upon receiving the amounts specified in the vouchers.

The circumstances under which these receipts in full were executed by the contractors is set forth in the testimony of Gustavus Ricker in the cases of Swift & Co. before the Court of Claims (See House Report No. 149, Fiftieth Congress, first session. Record, No. 6327, Swift & Co. and Niles Works against the United States, p. 283), viz:

All my receipts were alike so far as I recollect. The bills were uniformly made by the Navy Department, I think, and the receipts, all given by myself, were alike, so far as I know. There may have been a little difference in a word or two, but they

were all substantially alike. I declined to give a receipt in full and final settlement of all claims to the Government in New York in 1865, because I felt we had further claims, and Admiral Gregory acknowledged that we had, and stated that he would take them up very soon and have them settled; but he died.

Again on page 289 the same witness testifies:

When the bills were made up in New York, Mr. Hall, the book-keeper for the Government, made them up, and wanted to make a bill in full and final settlement of all claims, and I stated that I could not sign such a bill as that. Admiral Gregory was there and heard it, and I stated to him that he knew we had claims upon the Government for additional material and labor and for the advance in the price of labor and material. He said that he considered we had, and that he hoped to take them up and have them properly adjusted in a very short time. He soon after died, and the claims have never been adjusted.

Question. State whether it was intended at the time you signed those receipts submitted to you by the counsel for the United States, or any other receipts for the payment of money received by you for the contractors from the United States on account of the construction of these vessels, such receipts were to be in full of all claims against the United States.

Answer. No, sir; we were then petitioning Congress for a settlement of these claims.

The Government has not treated either the payments received by these contractors on account of the extra work done by them, or the receipts in full exacted when the final payments were made, as concluding and barring the contractors from further relief through the action of Congress. With the view of just such relief the Selfridge Board was created in 1865 under a resolution of the Senate. It made examination and report upon a number of cases, but its report was never acted upon, but the discussion of its report led to the act of 1867, under which the Marchand Board was created. It is not pretended that in fact the contractors were paid in full for the extra work, or the loss arising from the delays caused by the Government in the construction of the vessels. The object of the act of 1867 was to ascertain what these losses amounted to, with a view to their payment by authority of proper acts of Congress thereafter.

Such receipts are at best never more than prima facie evidence. The Government officers who exacted them told the contractors they would not be binding against further payments. Only by signing them could the contractors get what measure of payment they obtained. They were virtually given under duress.

The Selfridge Board acted under the following resolution of the Senate:

IN THE SENATE OF THE UNITED STATES,
March 9, 1865.

Resolved, That the Secretary of the Navy be requested to organize a board of not less than three competent persons, whose duty it shall be to inquire into and determine how much the vessels of war and steam machinery contracted for by the Department in the years 1862 and 1863 cost the contractors over and above the contract price, and the allowance for extra work, and report the same to the Senate at its next session, none but those who have given satisfaction to the Department to be considered.

As the *Wassuc* was not accepted by the Government until November 17, 1865, the claim of George W. Lawrence was not within the jurisdiction of that board on the 9th of March, 1865, when the Senate resolution was passed, nor on the 26th of May, 1865, when the board was organized (Senate Ex. Doc. No. 18, 39th Cong., 1st sess.) That board completed its labors December 23, 1865, and there can be no doubt that George W. Lawrence justly regarded it as having been convened for the consideration of claims arising from vessels that had "given satisfaction to the Department" prior to November 17, 1865.

This claim was presented to the board of which Commodore Marchand was the president, and by it was rejected.

We think it demonstrable beyond all question that the Marchand board did not have authority to adjudicate; that it did not report the facts called for by the act of March 2, 1867, or by the letter of the Secretary of the Navy creating the board; and that it did report certain conclusions of both law and fact which it had no jurisdiction to consider, and that are contrary to the right and justice of the matter.

By the act of March 2, 1867 (14 Stat., 424) the Secretary of the Navy was directed to investigate the claims of all contractors for building vessels of war and steam machinery for the same under contracts made after May 1, 1861, and prior to January 1, 1864, on the following basis. The act required him—

> To ascertain the additional cost which was necessarily incurred by each contractor in the completion of his work, by reason of any changes or alterations in the plans and specifications required and delays in the prosecution of the work occasioned by the Government, which were not provided for in the original contract.

The act further required the Secretary to report to Congress a tabular statement of each case which should—

> contain the name of the contractor, a description of the work, the contract price, the whole increased cost of the work over the contract price, and the amount of such increased cost, caused by the delay and action of the Government as aforesaid, and the amount already paid the contractor over and above the contract price.

It will be observed that by the language of this statute the Secretary of the Navy was not to adjudicate upon the rights or claim of the contractors. He was not authorized to even inquire into the legal result as to what, if anything, might be due to them. Nor did it give him authority to refer any such inquiry to a naval board or other subordinate tribunal. It became his simple duty under the statute to "ascertain" certain facts that were prescribed in the statute in terms so explicit that they should not be misunderstood.

The main and comprehensive fact directed to be ascertained was—

> the additional cost which was necessarily incurred by each contractor in the completion of his work by reason of any changes or alterations in the plans or specifications required and delays in the prosecution of the work occasioned by the Government, which were not provided for in the original contract.

To come at this fact he was further required to report to Congress a tabular statement of certain other facts, and among them—

> (1) the whole increased cost above the contract price—

and—

> (2) the amount of such increased cost caused by the delay and action of the Government *as aforesaid.*

The Marchand board, to whom the Secretary committed this investigation, instead of ascertaining the "whole increased cost of the work over the contract price," and possibly too anxious to finish its labors to enter upon so elaborate and extended an inquiry, made no inquiry at all, but contented themselves with substituting in their tabular report (a copy of which is hereunto appended) a column entitled "whole increased cost of the work over the contract price *as claimed by the contractors.*"

Whether the amounts thus claimed in this behalf by the contractors, as appeared, by their accounts submitted by them to the Navy Department, were correct or not the board did not even inquire.

Sitting as a court they, in this behalf, rendered no judgment, made no inquiry, but merely stated the plaintiff's claim.

In respect of the next statement required by the act, instead of ascertaining the amount of such increased cost "caused by the delay and action of the Government *as aforesaid*," they found the "amount of such increased cost caused by the delay and action of the Government *as determined by the board to be due*."

If in determining the amount "to be due" and in finding in the cases of these claimants that nothing was due the Board went upon the ground that there was in fact no increased cost incurred by the contractors by reason of "any changes or alterations in the plans and specifications required, and delays in the prosecution of the work occasioned by the Government," the Board must virtually have found that the accounts and claims presented by the contractors were false, pretended, and were presented for work never in fact done, and for materials never expended, and wages and other expenses never incurred. But clearly the Board did not mean this by their finding.

On the other hand if their finding that nothing was "due" went upon the ground that the contracts by their terms provided for changes and alterations in the plans and specifications for the vessels, and that consequently the contractors had no remedy under the terms of the act, then they merely passed upon a question of law, as to the construction of the act of 1867 in respect of the extent of relief intended to give the contractors, and they ascertained no facts at all as to the increased cost caused by alterations and delays of the Government. In this view of the scope of their investigation, beyond inspecting the accounts filed in the Navy Department and its other records in that behalf, they had no inquiry to make and no testimony to take, and they took none.

And if such is the true view to take of the scope of the relief furnished the contractors by the act of 1867, and if the Marchand Board were concluded from inquiring into the merits of the claims, because of the provisions contained in the contracts for alterations and changes of plans and specifications, then the relief granted by that act is totally different from that asked for in the pending bill, the inquiry made by the Marchand Board was inherently and radically different from what is asked now to be inquired of by the Court of Claims; then that board never made the investigation recommended in the previous reports of this committee upon these claims. The Supreme Court in the case of Chouteau *vs.* The United States (5 Otto, 61) did find that under the terms of these contracts the contractors could not recover at law for losses incurred from the changes of plans and from the delays caused by the Government. If that was the question submitted properly under the act of 1867 to the Marchand Board, then they could not have found other than or as they did find; but such finding can not be well pleaded as *res adjudicata* to the claims now presented, nor to the pending bill to send the administratrix of George W. Lawrence to the Court of Claims for it to investigate what increased cost was caused by the delay and action of the Government, as provided for in this bill, in which, in addition to the safeguards as they now exist in the Court of Claims for the prevention of fraud against the United States, and for the detection of misstatements or mistakes, other precautions have been adopted which seem to the committee sufficient to prevent any wrong or injustice being done to the United States.

Your committee are satisfied, from the evidence before it, that the account for such extra work was not correctly adjusted; and inasmuch as the said receipts are prima facie evidence not only of payment in full for such extras *per se*, but may be construed to cover the question of the extra expense caused by the delays as well, therefore deem it just to all parties that the entire matter should be considered by a legal

tribunal with competent jurisdiction to hear and determine the question involved, and in considering such receipt to treat the same as prima facie evidence, but susceptible of explanation by proofs, if any they have, showing the real indebtedness of the Government to them for such increased cost of such vessels beyond the contract price, and beyond the accounts paid by reason of such changes and alterations as evidently contemplated in the previous acts of Congress providing for an adjustment thereof, upon the principle that when the Government has by its acts caused its citizens performing labor for it to incur additional expense in its performance, such additional cost should be borne by the Government.

The committee recommend that the bill be passed.

APPENDIX.

REPORT OF THE MARCHAND BOARD.

[Senate Ex. Doc. No. 3, Fortieth Congress, second session.]

NAVY DEPARTMENT, *December* 4, 1867.

SIR: An act of Congress approved on the 2d of March last directs the Secretary of the Navy "to investigate the claims of all contractors for building vessels of war and steam machinery for the same, under contracts made after the first day of May, eighteen hundred and sixty-one, and prior to the first day of January, eighteen hundred and sixty-four," and to "report to Congress a tabular statement of each case, which shall contain the name of the contractor, a description of the work, the contract price, the whole increased cost of the work over the contract price, and the amount of such increased cost caused by the delay and action of the Government *aforesaid*, and the amount already paid the contractor over and above the contract price.

To comply with the requirements of this act, it became necessary to convene a board of officers for the examination of the several claims presented. Commodore J. B. Marchand, Chief Engineer J. W. King, and Paymaster Edward Foster were assigned to this duty, and their report is herewith transmitted.

I have the honor to be, very respectfully,

GIDEON WELLES,
Secretary of the Navy.

Hon. BENJ. F. WADE,
President of the Senate pro tem.

NAVY DEPARTMENT, *November* 26, 1867.

SIR: We have the honor to report that, in obedience to your order of July 6, 1867, we have carefully scrutinized each of the claims presented under the act of Congress approved March 2, 1867, "to investigate the claims of certain contractors for building vessels of war and steam machinery," and respectfully beg leave to inclose herewith the tabular statement called for by said act of Congress.

Messrs. Harlan & Hollingsworth, of Wilmington, Del., did not present a statement of their claim for delays occasioned by the Government while constructing the harbor and river monitor *Saugus* and light-draught monitor *Napa*; but in a letter to you, under date of October 12, they claim to be entitled to the same sum for the *Saugus* that the Board may award to the *Tecumseh*, and also to the same sum in case of the *Napa* that may be awarded to the *Casco*.

After examination, the Board finds that Messrs. Harlan & Hollingsworth are entitled for the *Saugus* to the same sum that was awarded to Mr. Harrison Loring in the case of the *Canonicus*, viz, $38,513, but do not find anything due in the case of the *Napa*.

We have the honor, sir, to be, very respectfully, your obedient servants,

J. B. MARCHAND,
Commodore and President.
J. W. KING,
Chief Engineer and Member.
EDWARD FOSTER,
Paymaster and Member.

Hon. GIDEON WELLES,
Secretary of the Navy.

Tabular statement showing the result of the action of the board appointed July 6, 1867, by the honorable Secretary of the Navy, to "examine the claims of certain contractors for the construction of vessels of war and steam machinery," under act of Congress approved March 2, 1867.

Name of contractor.	Description.	Contract price.	Whole increased cost of the work over the contract price, as claimed by the contractors.	Amount of such increased cost caused by the delay and action of the Government, as determined by the board to be due.	Amount already paid the contractors over and above the contract price. (Obtained from the bureaus.)
Secor & Co. and Perine, Secor & Co	River and harbor monitors Manhattan, Tecumseh, and Mahopac.	$1,380,000.00	$1,236,101.22	$115,539.01	$521,195.58
Alexander Swift & Co	River and harbor monitors Oneota and Catawba	920,000.00	665,757.22	None.	322,849.08
Snowden & Mason	River and harbor monitor Manayunk	460,000.00	339,025.00	None.	166,582.24
Miles Greenwood	River and harbor monitor Tippecanoe	460,000.00	349,455.33	None.	173,327.84
Harrison Loring	River and harbor monitor Canonicus	460,000.00	267,709.40	38,513.00	162,963.22
J. B. & W. W. Cornell	Turrets, etc., Miantonomoh and Tonawanda	282,050.00	461,777.72	None.	292,657.93
Atlantic Works, Boston	Turrets, etc., Monadnock and Agamenticus	265,000.00	427,323.64	None.	280,322.18
Charles W. Whitney	Iron-clad Keokuk*	.....	.....	.....	.....
Snowden & Mason	Light-draught monitor Umpqua	395,000.00	346,457.46	None.	166,582.24
Merrick & Sons	Light-draught monitor Yazoo	395,000.00	234,676.14	None.	175,725.19
Wilcox & Whiting	Light-draught monitor Koka	386,000.00	305,425.21	None.	165,638.53
Donald McKay	Light-draught monitor Nanset	386,000.00	314,768.93	None.	192,110.98
William Perine	Light-draught monitor Naubac	395,000.00	287,470.93	None.	127,440.00
A. & W. Denmead & Sons	Light-draught monitor Waxsaw	395,000.00	321,360.91	None.	198,587.32
George C. Bestor	Light-draught monitor Shiloh	386,000.00	364,073.55	None.	207,311.00
Atlantic Works, Boston	Light-draught monitor Casco	395,000.00	234,067.78	4,852.58	132,702.57
Curtis & Tilden	Light-draught monitor Shawnee	386,000.00	393,138.20	None.	196,319.70
C. W. McCord	Light-draught monitor Etlah	386,000.00	364,073.55	None.	207,311.00
McKay & Aldus	Light-draught monitor Squando	395,000.00	337,329.46	None.	194,535.70
George W. Lawrence	Light-draught monitor Wassuc	386,000.00	210,099.62	None.	169,815.37
Aquilla Adams	Light-draught monitor Chimo	395,000.00	377,243.20	4,852.58	225,445.52
Alexander Swift & Co	Light-draught monitors Klamuth and Ruma	790,000.00	678,446.34	None.	415,970.68
M. F. Merritt	Light-draught monitor Cohoes	395,000.00	318,735.99	4,852.58	201,968.28
J. O. Underhill	Light-draught monitor Modoc	395,000.00	214,485.72	None.	127,669.35
Tomlinson, Hartupee & Co	River monitors Sandusky and Marietta	376,000.00	314,850.36	15,171.00	94,079.14
Donald McKay	Iron double-ender Ashuelot	275,000.00	81,447.50	None.	22,415.92
T. F. Rowland	Iron double-ender Muscoota	275,000.00	71,565.21	None.	21,642.83
Zeno Secor	Iron double-ender Mohongo	275,000.00	84,144.13	None.	32,882.23
Harrison Loring	Iron double-ender Winnepec	275,000.00	70,443.16	None.	23,132.24
Paul Curtis	Wooden double-ender Chicopee	75,000.00	20,292.96	None.	5,739.85
George W. Lawrence	Wooden double-enders Agawam and Pontoosuc	150,000.00	50,987.95	None.	10,378.00
Larrabee & Allen	Wooden double-ender Iosco	75,000.00	25,914.00	None.	7,268.68

Edward Lupton	Wooden double-ender Lenapee	75,000.00	70,403.94	None.	5,923.48
Daniel S. Mershon, jr	Wooden double-ender Mingo	75,000.00	31,583.34	None.	None.
J. J. Abrahams	Wooden double-ender Eutaw	75,000.00	17,412.66	None.	200.00
Curtis & Tilden	Wooden double-ender Massasoit	75,000.00	17,398.82	None.	4,918.41
Daniel S. Mershon, jr	Wooden double-ender Cimarron *	.....	.....	.....	.....
Thomas Stack	Wooden double-ender Port Royal	100,000.00	20,758.79	None.	57.00
A. & G. T. Sampson	Wooden double-ender Mattabessett	75,000.00	20,877.49	None.	3,723.30
Curtis & Tilden	Wooden double-ender Osceola	75,000.00	16,225.63	None.	4,485.41
F. Z. Tucker	Wooden double-ender Mendota	75,000.00	25,398.71	None.	4,631.53
Thomas Stack	Wooden double-ender Metacomet	75,000.00	27,769.80	None.	4,081.27
J. Simonson	Wooden double-ender Chenango	75,000.00	19,969.98	None.	3,528.17
Globe Works, Boston	Steam machinery of ship Guerriere	400,000.00	30,508.02	None.	14,149.27
William Perine	Iron tug Triana	128,000.00	47,773.22	None.	5,142.22
Do	Iron tug Maria	80,000.00	31,049.88	None.	.....
Poole & Hunt	Machinery of wooden double-ender Mackinaw	82,000.00	11,844.96	3,694.81	943.89
J. P. Morris, Towne & Co	Machinery of wooden double-ender Tacony	82,000.00	27,518.57	None.	8,494.57

* Not considered as within the province of the board.

J. B. MARCHAND,
Commodore and President of Board.
J. W. KING,
Chief Engineer and Member of Board.
EDWARD FOSTER,
Paymaster and Member of Board.

NAVY DEPARTMENT, *Washington, D. C., November 26, 1867.*

LETTER OF B. F. ISHERWOOD, OF JANUARY 26, 1887.

WASHINGTON, D. C., *January* 26, 1887.

DEAR SIR: I have the pleasure of acknowledging the receipt of your communication of the 22d instant, asking me to inform you of the causes of the alterations and changes in the plans of the light-draught monitors constructed during the war for the Navy Department, and the causes of the delays in their construction, and whether these delays caused extra expense to the contractors?

In reply I would refer to the report on this subject made by the Hon. B. F. Wade, chairman of the Committee on the Conduct of the War, United States Senate, volume 3. From this report you will find that although I was as you state in your note above referred to, the chief of the Bureau of Steam Engineering in the Navy Department during the war, I had nothing to do whatever with either the designing or the execution of the work for these monitors.

The Navy Department had established what was in effect a bureau for this purpose in New York City, and had placed Mr. Alfan C. Stimers at its head, with a large corps of assistant engineers, draughtsmen, etc. The whole work, hulls and machinery, was entirely in his hands. He was absolutely untrammeled, being allowed carte-blanche by the Department, and his acts and plans were never submitted to any other person.

The selection of Mr. Stimers by the Navy Department for this duty was most unfortunate. The selection was wholly the act of Mr. G. V. Fox, then the Assistant Secretary of the Navy, who had unbounded but misplaced confidence in Mr. Stimer's abilities. In making the appointment Mr. Fox did not consult either of the mechanical bureaus of the Navy Department, nor was Mr. Stimer's plans ever submitted to them. The result, as is well known, was a most disastrous failure due to the absolute and astonishing incapacity of Mr. Stimers, and to the fact of his selection by Mr. Fox without inquiry of the mechanical bureaus as to Mr. Stimer's qualifications. In a professional matter of which Mr. Fox had no knowledge, such a selection without careful investigation of Mr. Stimer's abilities, was an act of temerity which in a measure made the Navy Department a party to the cause of failure.

At the commencement, then, Mr. Fox was responsible for a most injudicious selection for a most important position, and Mr. Stimers was responsible for the absurd blunders he committed, and, as both represented the Government, the latter was to that extent justly responsible for their acts. Under this system twenty vessels were built, all of which (they were exact duplicates) proved absolute failures, their only value being their worth as old material. The cost to the Government was about $8,000,000, and there was, in my opinion, a considerable loss borne by the contractors, chargeable to the action of the Government and not yet compensated.

The contracts were taken at a round sum for a certain amount of work to be done in a certain time conformably to drawings and specifications to be furnished by Mr. Stimers. The responsibilities of the contractors were limited to the quality of the materials and workmanship, and to the completion of the vessels in the specified time. They were not at all concerned in the final success or failure of the vessels.

From the first the plans were continually changed and important modifications introduced all in the direction of more expensive work and materials, and requiring longer time for execution. This increased length of time involved greatly increased cost of the work of the contractors, owing to the daily and rapidly increasing rise, at that date, in the cost of materials and labor. The war was then at its height, and the Government was in the market for the whole mechanical resources of the country which were not able to meet the demand upon them, and, as a result, the price of certain materials and labor used in the construction of ships and machinery rose abnormally high above, even, the general increase of price. The loss due to this cause was of necessity borne by the contractors and has never in any of the settlements made been taken into consideration. Had the plans and specifications been delivered to the contractors at the date of the contract, so that they could have then made their purchases of materials, and had there been no changes in these plans and specifications so that the work could have been prosecuted uninterruptedly to completion without the great delays unavoidable to such changes and alterations, it could have been executed in the contract time, and the contractors would have saved to themselves the rise in the price of materials and labor which took place during the extended time.

There must be here recalled that for the great extension of time in the completion of these contracts the Government alone was responsible by the changes, alterations, and additions it made to the work after the contracts were executed. This extension of time reacted upon the cost of the work as a whole, and though the Government paid a certain sum for additional work, that sum was inadequate to cover the losses of the contractors by the rise in the cost of materials and labor used in the construction of the work done according to the original contract, and which was prolonged in consequence of the alterations and additions.

All that the Government paid for was the price of additional work at current rates,

but the work as a whole could only progress together; that which was in accordance with the original contract had to wait until the additions and alterations could be completed, and in the mean time the cost of materials and labor was rising rapidly and enormously. These delays, which no efforts of the contractors could prevent and which were caused exclusively by the action of the Government, were ruinous to the contractors by reason of the continual rise of prices; materials and labor became every day scarcer and scarcer; the shops and plant of the contractors were occupied by the vessels that they could neither abandon nor complete. They could not therefore take other and remunerative work, and they had to keep a full force of workmen, for if they once lost them they could not, at that time, be recovered, so great was the demand.

Some approximation may be furnished of the losses sustained by the contractors from the action of the Government in departing from the original plans and specifications by additions and alterations involving great increase of time, by estimating the cost to the contractors of the original work had it been done in contract time, which would have been the case but for the interference of the Government, and the cost of the same work done in the extended time caused by the action of the Government taking as the basis the average price of materials and labor in the two cases.

The additions and alterations referred to were due to the incapacity of Mr. Stimers to properly design such vessels. Without knowledge of how to proceed, he was constantly vacillating, doing and undoing; completed work was destroyed and other work substituted; time was lost between the notification to the contractors that other plans would be prepared in place of those already furnished and the reception of such plans. In fact, the character of the vessels was essentially changed during their construction from the original programme; great delays were consequently necessarily experienced, and as the price of materials and labor was continually increasing, due to the continually increasing demand for the same caused by the war, the cost of executing the work which was done according to the original contract was much increased at the expense of the contractors.

Respectfully,

B. F. ISHERWOOD.

Hon. BENJAMIN BUTTERWORTH.

I certify the above is a true copy.
[SEAL.]

WM. H. DAVIS,
Notary Public for New Jersey.

(*Wasuc* reported completed and delivered at the Navy-Yard, Boston, Mass., December 1, 1865.)

CONTRACT FOR IRON-CLAD STEAM-BATTERY.

This contract made and entered into at the city of Portland, in the State of Maine, the third day of November, 1863, between Geo. W. Lawrence, of Portland, in the State of Maine, party of the first part, and John Lenthall, Chief of the Bureau of Construction and Repair, acting in the name of the Secretary of the Navy, for and in behalf of the United States of America, of the second part, witnesseth:

That, in consideration of the payments hereinafter provided for, the party of the first part hereby contracts and agrees to construct one iron-clad steam-battery, of iron and wood combined, of the following general dimensions, viz: 225 feet extreme length, 45 feet extreme breadth of beam, and 9½ feet total depth from top of deck to bottom of lower vessel, according to the general plans and specifications furnished, which will form a part of this contract. The working drawings to be made by the parties of the first part in conformity therewith to the satisfaction of the superintendent.

The iron used in this vessel to be of the very best quality, and all to be full to the thicknesses.

The engines, boilers, and appurtenances to be of the dimensions and kind expressed in the specifications furnished. The engines shall be condensing engines, without air-pumps.

A distilling apparatus to be provided to supply the crew with potable water. The vessel and all the machinery to be built in a substantial manner, strong and durable in every detail, and every defect or breakage arising from imperfections in materials or workmanship for two months after trial-trip shall be repaired at the expense of the party of the first part.

This battery to be completed and ready for service in eight months from the third day of November, 1863, unless arrested by any contingency which human foresight could not avert, and the work on her shall progress in proportion to the time stipulated for her completion. And it is further agreed between the contracting parties that this battery shall be completely fitted and equipped in all respects for service

with the exception of the guns, fuel, ordnance stores, and nautical instruments, the satisfaction of the party of the second part; and the party of the first part w rant and guaranty the work conforming in all respects to the specifications, drawin etc., furnished, which constitute a part of this contract, and are to govern the part hereby contracting as truly as if the same were incorporated in this instrument; i is the omission therein of any detail or object necessary to carry into effect the int of this agreement to be to the detriment of the United States. All the materials a workmanship to be of the very best quality, and acceptable to the superintendent be appointed on the part of the United States, who is hereby empowered to reject or any portion of either in any stage of its progress if, in his opinion, not of the qu ity above required; and the party of the first part will provide the superintende and inspector suitable and convenient office-room, and afford them satisfactory fa ities for superintending the work.

For this battery, so completed and delivered at the United States navy-yard, K tery, within the eight months stipulated, the party of the second part will pay to t party of the first part the sum of $386,000 in eight payments, in the following m ner:

When there shall have been furnished by the party of the first part materials a work done to the amount of $48,250, and certified to by the superintendent on t part of the United States, the party of the second part agrees to pay the same to t said party of the first part on bills properly approved therefor, deducting and rese ing 25 per centum from each and every payment until after a satisfactory test a acceptance of said vessel.

The party of the second part further agrees that, in addition to the price to be p for the vessel, there will be paid to the party of the first part the additional sum of fo thousand five hundred dollars ($4,500) per month for each and every month that t vessel may be delivered completed previous to the time stipulated. And the parti of the first part do hereby agree that for every month's delay beyond the time nam for the delivery of the vessel shall be a deduction of four thousand five hundred d lars ($4,500) per month from the sum of $386,000 before named as to be paid.

It is further agreed, and mutually understood, that the last payment is not to made until the vessel is delivered at the place appointed for the reception of the ve sel by the Navy Department.

And it is understood between the contracting parties that after the vessel shall ready for sea and be taken possession of by the Government such possession shall regarded as accepting the vessel so far only as the quality of materials and workma ship are concerned, and not to affect the claim of the party of the second part f damage in case of default or failure to the party of the first part in not complyi with all the provisions of this contract; and that the test of the vessel, as provide shall be made as soon thereafter as practicable, not to exceed sixty days, the reserv tion of 25 per centum to be withheld until after the test shall have been made, a the payment thereof, or as much as may be due, shall be received by the parties the first part in full consideration of the complete fulfillment of this contract.

In case of default of all or any of the foregoing covenants and stipulations, t party of the first part hereby bind themselves, their heirs, executors, administrato and assigns, by these presents, to refund to the United States the amount of mon advanced to them on said battery within thirty days after such failure shall have be declared by the party of the second part; and the party of the first part, in case failure in any of the points before stipulated, hereby acknowledge themselves i debted to the United States in liquidated damages to the full amount of the mon advanced as aforesaid. The vessel to remain in the possession of the party of t second part, after the first payment, until all advances shall have been refunded, case of failure to fulfill the contract by the party of the first part.

It is further agreed that in case of failure or neglect on the part of the party of t first part to fulfill the stipulations of this contract, and have the vessel delivered above stipulated, that the Navy Department may, at its option, enter in and take p session of, and direct purchases to be made of all the necessary materials, and ca the vessel to be completed and fully equipped, as heretofore described; and any exc of cost will be at the expense of the said party of the first part, provided the del has not been occasioned by the action of the Navy Department.

The party of the first part does further engage and contract that no member Congress, officer of the Navy, or any person holding any office or appointment und the Navy Department, shall be admitted to any share or part of this contract agreement, or to any benefit to arise thereupon. And it is hereby expressly provid and this contract is upon this express condition, that if any such member of Congre officer of the Navy, or other person above named, shall be admitted to any share part of this contract, or to any benefit to arise under it, or in case the party of t first part shall in any respect fail to perform this contract on their part, the same m be, at the option of the United States, declared null and void, without affecting th right to recover for defaults which may have occurred.

It is further agreed that the parties of the second part shall have the privilege of making alterations and additions to the plans and specifications, at any time during the progress of the work, as they may deem necessary and proper; and if said alterations shall cause extra expense to the parties of the first part, they will pay for the same at fair and reasonable rates; and should such changes cause less work and expense to the parties of the first part, a corresponding reduction to be made from the contract price, and in each case the cost of the alterations to be determined when the changes are directed to be made.

It is further agreed that the Navy Department shall have a lien on the vessel and on all the materials provided for the fulfillment of this contract, for the money advanced or paid by the United States on account thereof; and the said parties of the first part agree that they will keep the vessel and materials, or as much of them as are exposed and liable to injury, insured against fire and flood to the amount which may be paid on account of this contract until delivered to the Navy Deartment, the policies being made payable to the United States.

It is further agreed by the parties of the first part, as required by the fourteenth section of the act of Congress approved July 17, 1862, that neither this contract nor any interest therein shall be transferred to any other party or parties; and that any such transfer shall cause the annulment of the contract as far as the United States are concerned, and that all rights of action are hereby reserved to the United States for any breach of this contract by the said parties of the first part.

The payments shall be made to the said parties of the first part, or to their order, by the navy agent at New York, in the manner and to the extent provided, on bills in triplicate, duly certified and approved by the proper persons, within ten days after the warrants for the same shall have been passed by the Secretary of the Treasury.

GEO. W. LAWRENCE. [L. S.]
ABRAHAM SNOW, [L. S.]
Surety.
JOSEPH S. BURGESS, [L. S.]
Surety.

Signed, sealed and delivered in presence of—
Witness to the name of Geo. W. Lawrence.
W. COURTNEY.
As to A. Snow and Jos. S. Burgess—
GEO. A. BLOOD.

PORTLAND, MAINE, *Dec.* 8, 1863.

I certify that I have made due and diligent personal inquiry as to the ability of the sureties in this contract, and am satisfied that they are good and sufficient for the sum of three hundred and eighty-six thousand dollars.

I. HENDERSON,
Navy Agent.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1506.

IN THE SENATE OF THE UNITED STATES.

JULY 16, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 7285.]

The Committee on Pensions, to whom was referred the bill (H. R. 7285) granting a pension to Norman B. Pratt, late private in Company A, of the One hundred and fiftieth Regiment Ohio Volunteers, have examined the same and report:

That from the facts stated in the House report, which is hereto attached and made a part hereof, we believe this to be a meritorious measure and do recommend the passage of the bill.

[House Report No. 1571, Fifty-first Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7285) granting a pension to Norman B. Pratt, submit the following report:

Norman B. Pratt, late a private in Company A, One hundred and fiftieth Regiment Ohio Volunteer Infantry, enlisted May 2, 1864, discharged June 27, 1864.

This man was perfectly sound and healthy when he entered the Army.

J. W. Smith, the surgeon of the soldier's regiment, testifies:

"I was surgeon of the One hundred and fiftieth Regiment of Ohio Volunteer Infantry in the late war and have some memoranda of the disability of that regiment. By reference I find N. B. Pratt, a private in Company A, was discharged from service because of rheumatism June 27, 1864; I may also say I have personal remembrance of this case, the man and his illness."

Capt. Thomas S. Paddock, the captain of the soldier's company, testifies in an affidavit on file:

"I knew Norman B. Pratt prior to his enlistment. I never heard of his having rheumatism, and I believe that at the time of enrollment he was a sound man. At Washington, D. C., he was taken down with rheumatism in a severe form, and after a number of weeks in hospital he was discharged. Since the war I have met Pratt often and he has always complained of his rheumatism, and looked and acted like a man afflicted in that way."

Mr. J. B. Haines testifies:

"I was acquainted with Norman B. Pratt, the claimant, prior to enlistment; I saw him very frequently, and knew him to be a moral, upright man, temperate and truthful, and he always appeared to be in excellent health; in fact, a person in every way far above the average. I do not believe it probable that he could have suffered from rheumatic trouble and me not know it, as our town is small, and if a person is sick the whole neighborhood was likely to be informed of it.

"Mr. Pratt was prominent and well known amongst the people of the village, and I think it likely that I would know it if any such fact had existed."

W. T. Weelock testifies:

"I knew Norman B. Pratt well before he enlisted, and I never knew of his having rheumatism prior to his service in the Army."

Charles B. Marble and J. J. Cameron testify that they were both well acquainted with the soldier prior to enlistment, and that he was a sound, healthy man.

This soldier filed his claim for pension December 25, 1886, which was rejected August 1, 1887, upon the ground that the alleged rheumatism existed prior to claimant's enlistment in the United States service. Notwithstanding all the favorable evidence in the case, there seems to have still been a doubt as to the origin of the disease. There is no question, in the opinion of your committee, that the soldier contracted the disease in the service, and that he is still suffering from it.

Your committee recommend the passage of the bill.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1507.

IN THE SENATE OF THE UNITED STATES.

JULY 16, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6071.]

The Committee on Pensions, to whom was referred the bill (H. R. 6071) granting a pension to O. Herrick Le Fevre, have examined the same and report:

The report on which the bill was passed by the House is concurred in and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6071) granting a pension to O. Herrick Le Fevre, submit the following report:

This claim was rejected by the Pension Office upon the report of a special examiner in spite of the evidence of over a dozen comrades and the lieutenant of the soldier's company, connecting his disability with his service; the testimony of the regimental surgeon who treated him; the testimony of a number of neighbors and comrades as to soldier's perfect physical condition prior to service, and his pitiable condition subsequently; and four separate reports of medical examining boards, rating him as totally disabled. The evidence shows that this soldier enlisted in August, 1861, and was honorably discharged in September, 1865, since which time, by reason of exposure in the service, he has suffered from disease of head and throat, rheumatism, and disease of heart.

The testimony of Comrades Lucien Davis, William P. Treadway, Bartlett Johnson, James A. Rhodes, Isaac Gould, George Graham, George A. Dubeck, and Hospital Steward William H. Palmer is practically unanimous that claimant was sick with measles and typhoid pneumonia, which left him in debilitated condition. T. H. Linsley and Almira Linsley testify that claimant came to live with them soon after the close of the war, and was a constant sufferer from disease of head and throat. Q. Van Hummell, M. D., testifies to having treated claimant in 1872 for severe form of catarrhal inflammation of nose and throat, and states that disease is result of exposure incident to army life. M. E. Knapp, M. D., testifies to having treated claimant for eleven years for rheumatism. Almon G. Bruce, examining surgeon at Corunna, Mich., testifies to having examined claimant in 1881, and finds bad case chronic nasal catarrh. He was satisfied same originated in service. Four examining boards coroborate this report.

From the evidence on file, and the reports of the examining surgeons, it is evident that this claimant could not obtain a pension under the disability bill recently passed, corresponding with his disabled condition; therefore this bill is reported favorably with a recommendation that it do pass.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1508.

IN THE SENATE OF THE UNITED STATES.

JULY 16, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8822.]

The Committee on Pensions, to whom was referred the bill (H. R. 8822) increasing the pension of Samuel D. Pitcher, have examined the same and report:

The report on which this bill was passed by the House is concurred in, and is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. 8822) increasing the pension of Samuel D. Pitcher, have considered the same and report:

The claimant was a second lieutenant in Capt. John Loyall's troop of Georgia Mounted Volunteers, Mexican war, and he is now a pensioner at $8 per month on account of said service.

The testimony accompanying the bill shows that the claimant contracted diarrhea and hemorrhoids during his Mexican war service and has been a sufferer from those diseases ever since. He is over eighty years old and wholly disabled for the performance of manual labor. It is further shown that he is in very needy circumstances and that the pension prayed for is necessary to his comfortable support.

The committee believe the case to be a meritorious one.

The beneficiary is very old and poor, and the committee believe the increase is justified by the facts.

The bill is reported favorably with a recommendation that it do pass.

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1509.

IN THE SENATE OF THE UNITED STATES.

JULY 16, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10902.]

The Committee on Pensions, to whom was referred the bill (H. R. 10902) granting a pension to Martin Brachall, have examined the same and report:

The report on which this bill was passed by the House is concurred in and is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. 10902) granting a pension to Martin Brachall, have considered the same and report:

The claimant was a private in Capt. J. M. Gillespie's company, Illinois militia, and served thirty-one days in the Black Hawk war, in 1832.

His residence and post-office address is Danville, Ill.

He asks a pension of $30 per month, by special act, declaring under oath that he is nearly eighty-two years old, feeble, with no property, and without any means of support whatever except manual labor. He states further that his father served seven years and six months in the Revolutionary war and was pensioned therefor till his death in 1831; that his father also served in the war of 1812.

H. P. Blackburn, of Danville, Ill., states on oath that the claimant is very old and feeble, and makes his living entirely by working at the tailor trade, and that he is a man of unquestioned veracity, honest, sober, and industrious, but has no property whatsoever.

The bill is reported favorably with a recommendation that it do pass

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51st Congress, 1st Session. | SENATE. | Report No. 1510.

IN THE SENATE OF THE UNITED STATES.

July 16, 1890.—Ordered to be printed.

Mr. Dawes, from the Committee on Appropriations, submitted the following

REPORT:

[To accompany H. R. 10726.]

The Committee on Appropriations, in reporting back to the Senate the bill (H. R. 10726) "Making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1891, and for other purposes," present the following statement showing the amounts estimated for these purposes in the Book of Estimates, the amounts provided by the bill as it passed the House of Representatives, the amounts recommended by the committee for the fiscal year 1891, and the amount of the Indian appropriation act for 1890, and append hereto various communications and papers received and considered in connection with the bill.

INDIAN SERVICE, 1891.

Amount of estimates for 1891	$5,804,399.77
Amount of bill as passed the House	6,022,638.75
Increase made to bill by Senate committee (net)	1,131,172.68
Amount as reported to Senate	7,153,811.43
Amount of act for 1890	8,077,453.39

The changes made in amounts of House bill by Senate committee are as follows:

Increase:	
Indian agents (net)	$100.00
Creek Nation of Indians (out of their funds)	400,000.00
Mexican Pottawatomie Indians of Kansas	27,011.60
Seneca tribe of Indians	1,405.66
Sioux, subsistence	100,000.00
Sioux, advance payment of interest under act March 2, 1889 (reimbursable)	150,000.00
Northern Cheyennes and Arapahoes on Tongue River	15,000.00
Commission to visit Puyallup Reservation	10,000.00
Indian police	9,000.00
Chippewa Indians of Minnesota, payment of damages on account of reservoirs	150,000.00
Chippewa Indians of Minnesota, under act January 14, 1889 (reimbursable)	200,000.00
Special counsel, Mission Indians of California	2,500.00
Expenses of prosecuting suit on behalf of North Carolina Cherokees	15,000.00
Indian day and industrial school buildings	50,000,00
Carlisle School, buildings, etc	5,000.00

Increase—Continued.	
Flandreau, S. Dak., school	$25,000.00
Mandan, N. Dak., school	25,006.00
Grand Junction, Colo., school	17,500.00
Total increase	1,202,517.26
Reduction:	
Negotiations with certain Northern Cheyennes	5,000.00
Payment of "Fitch bond," so called	2,100.00
Chippewas of Lake Superior	1,000.00
Negotiations with Indian tribes	5,000.00
Commission to negotiate with Turtle Mountain Band of Chippewas	5,000.00
Re-imbursement of Big Jim's band—Absentee Shawnees	17,215.00
Payment to George Wells	548.00
Payment to George M. Chapman	424.40
Re-imbursement of Joseph Dunlap	1,100.00
Salary of W. W. Anderson	127.18
St. Joseph Normal School, Rensselaer, Ind	8,330.00
Shoshone Indian Reservation school buildings	13,000.00
Holy Family Indian School, Montana	12,500.00
Total reduction	71,344.58
Net increase	1,131,172.68

Comparative statement showing the appropriations for 1890, *the estimates for* 1891, *the amounts provided by the House bill, and the amounts recommended by the Senate Committee on Appropriations for* 1891.

Object.	Appropriations, 1890.	Estimates, 1891.	House bill, 1891.	Senate committee, 1891.
Current and contingent expenses.				
Indian agents	$37,400.00	$38,000.00	$39,000.00	$39,100.00
Interpreters	25,000.00	25,000.00	25,000.00	25,000.00
Indian inspectors	15,000.00	15,000.00	15,000.00	15,000.00
Indian inspectors, traveling expenses	7,000.00	8,000.00	7,000.00	7,000.00
Indian school superintendent, salary	4,000.00	4,000.00	4,000.00	4,000.00
Indian school superintendent, traveling expenses	1,500.00	1,500.00	2,000.00	2,000.00
Buildings, at agencies, and repairs	25,000.00	25,000.00	25,000.00	25,000.00
Contingencies of the Indian service	40,000.00	40,000.00	44,000.00	44,000.00
Expenses of Indian Commission	5,000.00	5,000.00	5,000.00	5,000.00
Total, current and contingent expenses	209,900.00	212,400.00	216,000.00	216,100.00
Fulfilling treaty stipulations.				
Apaches, Kiowas, and Comanches	48,200.00	48,200.00	48,200.00	48,200.00
Cheyennes and Arapahoes	38,500.00	38,500.00	38,500.00	38,500.00
Chickasaws	3,000.00	3,000.00	3,000.00	3,000.00
Chickasaw Nation, re-imbursement of	184,143.09			
Chippewas of the Mississippi	5,000.00	5,000.00	5,000.00	5,000.00
Chippewas, Pillagers, and Lake Winnebagoshish bands	22,666.66	22,666.66	22,666.66	22,666.66
Choctaws	29,432.89	29,432.89	29,432.89	29,432.89
Choctaw Orphan Reservation Fund, re-imbursement of			15,000.00	15,000.00
Columbias and Colvilles	7,100.00	7,100.00	7,100.00	7,100.00
Creeks	69,968.40	69,968.40	69,968.40	69,968.40
Creek Nation of Indians				400,000.00
Crows	97,500.00	96,000.00	91,000.00	91,000.00
Indians at Fort Hall	(*)	6,000.00	6,000.00	6,000.00
Indians at Blackfeet Agency	150,000.00	150,000.00	150,000.00	150,000.00
Indians at Fort Belknap Agency	115,000.00	115,000.00	115,000.00	115,000.00
Indians at Fort Peck Agency	165,000.00	165,000.00	165,000.00	165,000.00
Iowas	2,875.00	2,875.00	2,875.00	2,875.00
Kansas	1,524.02	1,524.02	1,524.02	1,524.02
Kickapoos	4,121.62	4,121.62	12,466.02	12,466.02
Miamies of Kansas	1,382.56	1,382.56	1,382.56	1,382.56
Molels	3,000.00	3,000.00	3,000.00	3,000.00
Nez Percés	6,000.00	6,000.00	6,000.00	6,000.00
Northern Cheyennes and Arapahoes	56,000.00	56,000.00	56,000.00	56,000.00

*Special act, $6,000.

Comparative statement showing the appropriations for 1890, *etc.*—Continued.

Object.	Appropriations, 1890.	Estimates, 1891.	House bill, 1891.	Senate committee, 1891.
Fulfilling treaty stipulations—Continued.				
Northern Cheyennes and other Indians, negotiations with			$10,000.00	$5,000.00
Osages	$3,456.00	$3,456.00	3,456.00	3,456.00
Otoes and Missouries	5,000.00	5,000.00	5,000.00	5,000.00
Pawnees	47,100.00	47,100.00	47,100.00	47,100.00
Pottawatomies	20,647.65	20,647.65	20,647.65	20,647.65
Pottawatomies, Citizen and Prairie Bands			2,100.00	
Pottawatomie Nation, payment of award	361,682.04			
Mexican Pottawatomies of Kansas				27,011.60
Quapaws	1,500.00	1,500.00	1,500.00	1,500.00
Sacs and Foxes of the Mississippi	51,000.00	51,000.00	51,000.00	51,000.00
Sacs and Foxes of the Missouri	8,070.00	8,070.00	8,070.00	8,070.00
Seminoles	28,500.00	28,500.00	28,500.00	28,500.00
Senecas	3,690.00	3,690.00	3,690.00	5,093.66
Senecas of New York	11,902.50	11,902.50	11,902.50	11,902.50
Shawnees	5,000.00	5,000.00	5,000.00	5,000.00
Eastern Shawnees	1,030.00	1,030.00	1,030.00	1,030.00
Shoshones and Bannacks	26,000.00	26,000.00	26,000.00	26,000.00
Six Nations of New York	4,500.00	4,500.00	4,500.00	4,500.00
Sioux of different tribes	1,168,500.00	1,318,500.00	1,163,500.00	1,413,500.00
Sioux, Yankton tribe	50,000.00	50,000.00	50,000.00	50,000.00
Sioux, Medawakanton band	12,000.00		8,000.00	8,000.00
Confederated bands of Utes	73,740.00	73,740.00	73,740.00	73,740.00
Ute Indians, certain payment to	4,000.00	4,000.00	4,000.00	4,000.00
Winnebagoes	44,162.47	44,162.47	44,162.47	44,162.47
Cherokee Freedmen, expenses of payment to	20,000.00			
Total, fulfilling treaty stipulations	2,961,894.90	2,538,569.77	2,422,014.17	3,093,331.43
Miscellaneous supports.				
Arapahoes, Cheyennes, Apaches, Kiowas, etc.	250,000.00	260,000.00	240,000.00	240,000.00
Arickarees, Gros Ventres, and Mandans	30,000.00	30,000.00	30,000.00	30,000.00
Chippewas of Lake Superior	5,000.00	5,000.00	6,000.00	5,000.00
Chippewas of Red Lake and Pembina tribe	10,000.00	10,000.00	10,000.00	10,000.00
Chippewas on White Earth Reservation	10,000.00	10,000.00	10,000.00	10,000.00
Chippewas, Turtle Mountain band	13,000.00	13,000.00	13,000.00	13,000.00
Confederated tribes and bands in middle Oregon	6,000.00	6,000.00	6,000.00	6,000.00
D'Wamish and other allied tribes in Washington	7,000.00	7,000.00	7,000.00	7,000.00
Flatheads, Carlos' band	12,000.00	12,000.00	12,000.00	12,000.00
Flatheads and other confederated tribes	10,000.00	10,000.00	10,000.00	10,000.00
Hualpais in Arizona	7,500.00	7,500.00	7,500.00	7,500.00
Apaches and other Indians in Arizona and New Mexico	170,000.00	170,000.00	170,000.00	170,000.00
Shoshones and other Indians at Fort Hall Reservation	17,000.00	17,000.00	13,000.00	13,000.00
Shoshones and other Indians at Lemhi Agency	15,000.00	15,000.00	14,000.00	14,000.00
Klamaths and other Indians at Klamath Agency	5,000.00	5,000.00	5,000.00	5,000.00
Kansas Indians	2,500.00	2,500.00	2,500.00	2,500.00
Kickapoos	5,000.00	5,000.00	5,000.00	5,000.00
Makahs	4,000.00	4,000.00	4,000.00	4,000.00
Menomonees	4,000.00	4,000.00	4,000.00	4,000.00
Modocs in Indian Territory	4,000.00	4,000.00	4,000.00	4,000.00
Navajoes	7,500.00	15,000.00	15,000.00	15,000.00
Northern Cheyennes on Tongue River, Montana				15,000.00
Nez Perces of Joseph's Band	15,000.00	15,000.00	12,000.00	12,000.00
Nez Perce Indians in Idaho	6,500.00	6,500.00	6,500.00	6,000.00
Poncas	18,000.00	18,000.00	18,000.00	18,000.00
Qui-nai-elts and Quil-leh-utes	4,000.00	4,000.00	4,000.00	4,000.00
Shoshones in Wyoming	15,000.00	15,000.00	15,000.00	15,000.00
Shoshones in Nevada	10,000.00	10,000.00	10,000.00	10,000.00
Seminole and Creek Indians in Florida	6,000.00		6,000.00	6,000.00
Sioux of Lake Traverse	6,000.00	6,000.00	6,000.00	6,000.00
Sioux of Devil's Lake	6,000.00	6,000.00	6,000.00	6,000.00
S'Klallams	4,000.00	4,000.00	4,000.00	4,000.00
Tonkawas	5,000.00	5,000.00	5,000.00	5,000.00
Walla Wallas, Cayuse, and Umatilla tribes	6,500.00	6,500.00	6,500.00	6,500.00
Yakamas and other Indians	12,000.00	12,000.00	10,000.00	10,000.00
For food and other necessaries in cases of emergency			25,000.00	25,000.00
Total miscellaneous supports	708,500.00	720,000.00	722,000.00	736,000.00

Comparative statement showing the appropriations for 1890, *etc.*—Continued.

Object.	Appropriations, 1890.	Estimates, 1891.	House bill, 1891.	Senate mittee,
General incidental expenses of the Indian service.				
In Arizona	$20, 000. 00	$20, 000. 00	$20, 000. 00	$20,
In California	27, 000. 00	27, 000. 00	27, 000. 00	27,
In Colorado	1, 500. 00	1, 500. 00	1, 500. 00	1,
In North Dakota			1, 500. 00	1,
In Dakota	5, 000. 00	5, 000. 00		
In South Dakota			3, 500. 00	3,
In Idaho	1, 000. 00	1, 000. 00	1, 000. 00	1,
In Montana	4, 000. 00	4, 000. 00	4, 000. 00	4,
In Nevada	22, 500. 00	22, 500. 00	22, 500. 00	22,
In New Mexico	5, 000. 00	5, 000. 00	5, 000. 00	5,
In Oregon	16, 000. 00	16, 000. 00	16, 000. 00	16,
In Utah	10, 000. 00	10, 000. 00	8, 000. 00	8,
In Washington	16, 000. 00	16, 000. 00	16, 000. 00	16,
In Wyoming	1, 000. 00	1, 000. 00	1, 000. 00	1,
Total general incidental expenses	129, 000. 00	129, 000. 00	127, 000. 00	127,
Miscellaneous.				
Negotiating with Indian tribes		10, 000. 00	10, 000. 00	5,
New allotments in severalty	30, 000. 00	30, 000. 00	30, 000. 00	30,
Unfinished allotments	10, 000. 00	10, 000. 00	10, 000. 00	10,
Aiding Indians to establish homes under the severalty act	30, 000. 00			
Negotiations with Turtle Mountain band of Chippewas			10, 000. 00	5,
Pay of practical farmers	50, 000. 00	50, 000. 00	60, 000. 00	60,
Negotiations with Puyallup Indians in Washington				10,
Pay of Indian police	114, 000. 00	160, 000. 00	114, 000. 00	123,
Pay of judges of Indian courts	5, 000. 00	15, 000. 00	10, 000. 00	10,
Vaccination of Indians	1, 000. 00	1, 000. 00	1, 000. 00	1,
Telegraphing and purchasing Indian supplies	40, 000. 00	40, 000. 00	45, 000. 00	45,
Transportation of Indian supplies	300, 000. 00	300, 000. 00	290, 000. 00	290,
Surveying and alloting Indian reservations	10, 000. 00	10, 000. 00	10, 000. 00	10,
Negotiations with the Muscogee or Creek Nation of Indians			82, 250. 00	82,
Investigating Indian depredation claims	20, 000. 00	20, 000. 00	20, 000. 00	20,
Expenses of litigation respecting real estate of eastern band Cherokees of North Carolina	2, 500. 00			
Wagon-road for Hoopa Valley Reservation, Cal	5, 000. 00			
Labor for Indian Office	660. 00			
Payment to Beeson & Baker, of Paola, Kans.	60. 00			
Re-imbursement of Wind River Valley settlers	9, 371. 50			
To continue the Cherokee Commission			20, 000. 00	20,
To re-imburse Big Jim's band of Absentee Shawnees			17, 215. 00	
For matron to teach Indian girls in housekeeping, etc			720. 00	
To pay George Wells for services at Haskell Institute			548. 00	
To pay George Chapman, late Indian inspector, traveling expenses			424. 40	
To re-imburse Joseph Dunlap for money paid Chief Joel, of Kansas tribe of Indians			1, 100. 00	
To pay salary of W. W. Anderson as agent of Lower Brule Agency			127. 18	
Chippewa Indians of Minnesota, re-imbursable				350,
Special counsel for Mission Indians of California				2,
Expenses of prosecuting suit against W. H. Thomas and others on behalf of North Carolina Cherokees				15,
Total, miscellaneous	627, 591. 50	646, 000. 00	682, 384. 58	1, 039,
Support of schools.				
For day and industrial schools, support	685, 000. 00	685, 000. 00	751, 870. 00	751,
Construction and repair of public buildings	55, 000. 00	55, 000. 00	100, 000. 00	150,
Purchase of stock for schools	10, 000. 00	10, 000. 00	10, 000. 00	10,
At Albuquerque, N. Mex	35, 000. 00	40, 000. 00	46, 500. 00	46,
Payment to Board of Home Missions	6, 803. 13			

Comparative statement showing the appropriations for 1890, *etc.*—Continued.

Object.	Appropriations, 1890.	Estimates, 1891.	House bill, 1891.	Senate committee, 1891.
Support of school.—Continued.				
At Carlisle, Pa	$81,000.00	$101,000.00	$121,000.00	$126,000.00
At Chilocco, Ind. Ter	32,125.00	40,000.00	50,000.00	50,000.00
At Carson City, Nev	10,000.00	25,000.00	25,000.00	25,000.00
At Genoa, Nebr	40,000.00	40,000.00	50,000.00	50,000.00
At Shoshone Indian Reservation, Wyo			25,000.00	12,000.00
At Grand Junction, Colo	10,000.00	17,500.00	17,500.00	35,000.00
At Hampton, Va	20,040.00	20,040.00	20,040.00	20,040.00
At Lawrence, Kans	85,500.00	100,000.00	122,500.00	122,500.00
At Lincoln Institution, Philadelphia	33,400.00	33,400.00	33,400.00	33,400.00
At Mandan, N. Dak				25,000.00
At Pierre, S. Dak	35,000.00	25,000.00	35,000.00	35,000.00
At Flandreau, S. Dak				25,000.00
At Santa Fe, N. Mex	6,000.00	25,000.00	25,000.00	25,000.00
At Salem, Oregon	36,500.00	40,000.00	70,750.00	70,750.00
At St. Ignatius School, Montana	45,000.00	45,000.00	45,000.00	45,000.00
At St. John's University and St. Benedict's Academy, Minnesota	15,000.00	30,000.00	30,000.00	30,000.00
At St. Paul's Industrial School, Minnesota	15,000.00			
At Cherokee Training School, North Carolina	12,000.00	12,000.00	13,360.00	13,360.00
At White's Manual Labor Institute, Wabash, Ind	10,020.00	10,020.00	10,020.00	10,020.00
Support of Indian children at schools in the States	63,180.00	75,000.00	75,000.00	75,000.00
Transportation of Indian pupils	28,000.00	28,000.00	40,000.00	40,000.00
Purchase of Keam's Cañon for Indian school purposes	10,000.00			
St. Joseph's Normal School at Rensselaer, Ind			8,330.00	
St. Boniface's Industrial School, Banning, Cal			12,500.00	12,500.00
Holy Family Indian School, Blackfoot Agency, Mont			12,500.00	
Total, support of schools	1,379,568.13	1,456,960.00	1,750,270.00	1,838,940.00
Interest on trust funds	84,556.84	101,470.00	101,470.00	101,470.00
Expenses of negotiations with the Prairie band of Pottawatomies and Kickapoos of Kansas	5,000.00			
Expenses of negotiations with the Sioux Indians	25,000.00			
Expenses of negotiations with the Cœur d'Alene Indians	2,000.00			
Standard samples of Indian supplies	1,500.00		1,500.00	1,500.00
Payment for Seminole lands	1,912,942.02			
Expenses of negotiations with the Cherokee Indians	25,000.00			
Establishing two land districts in Indian Territory	5,000.00			
Total	1,976,442.02		1,500.00	1,500.00
Total for the Indian service	8,077,453.39	5,804,399.77	6,022,688.75	7,153,811.43

MONEY DUE THE CREEK NATION.

[House Report No. 1507, Fifty-first Congress, first session.]

The Committee on Indian Affairs, to whom was referred H. R. 3804, having had the same under consideration, beg leave to submit the following report:

This bill seeks to appropriate $400,000 due the Creek Nation under the third article of the treaty of 1866, which provides that the sum of $400,000 shall be paid in money and divided per capita to said Creek Nation, unless otherwise directed by the President of the United States, under the direction of the Secretary of the Interior, as the same may accrue from the sale of public lands to other Indians.

This provision of the treaty of 1866 has never been carried out. The lands alluded to in said treaty have all been sold, and inasmuch as this sum is bearing 5 per cent. interest and of no advantage to the Government, and inasmuch as the Indians through their national council request its payment, your committee are of the opinion that said sum should be paid as stipulated in third article of said treaty of 1866. Said na-

tion now has a trust fund in the Treasury of the United States amounting to the sum of $3,399,368, all of which is bearing interest yielding an annual income of $169,968.40. Should the amount provided in this bill be paid over to them, there will still be an annual income arising from the remainder of their trust fund of $149,968.40, which will be ample to support their national government schools, and so forth, and will be a saving to the United States of $20,000 annually.

The Interior Department, including the Indian Office, recommend the passage of the bill with an amendment, in which your committee concur. The report of the Indian Office and Secretary of the Interior is hereto attached as a part hereof; and as amended your committee recommend that the bill do pass.

DEPARTMENT OF THE INTERIOR,
Washington, March 19, 1890.

SIR: I have the honor to acknowledge the receipt of your communication of 25th February last, inclosing copy of House bill 3804, "To appropriate $400,000 to the Creek Nation of Indians as per third article of treaty of 1866."

In response thereto I transmit herewith copies of communications of 4th and 10th instant, from the Commissioner of Indian Affairs, to whom the matter was referred.

The correspondence shows that the provision of article 3 "that $400,000 shall be paid in money and divided per capita to said Creek Nation, unless otherwise directed by the President of the United States, under the direction of the Secretary of the Interior, as the same may accrue from the sale of land to other Indians," has not been carried out, but that the Indians have received the interest thereon at 5 per cent. per annum.

The Commissioner recommends that the bill be amended by the following proviso:

"That the Creek Indians shall receipt to the United States for the above sum in full for the $400,000 named in the third article of the treaty between the United States and the Creek Nation, proclaimed August 11, 1866."

Very respectfully,

JNO. W. NOBLE,
Secretary.

CHAIRMAN OF COMMITTEE ON INDIAN AFFAIRS,
House of Representatives.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., March 4, 1890.

SIR: I have the honor to be in receipt, by your reference of the 25th ultimo for report, of a communication from Hon. B. W. Perkins, chairman House Committee on Indian Affairs, dated the 25th ultimo, inclosing House bill 3804, entitled "A bill to appropriate $400,000 to the Creek Nation of Indians, as per third article of treaty of 1866," with the request for any suggestion or recommendation therewith that the Department can make.

The bill enacts that "the sum of $400,000 be, and the same is hereby, appropriated out of any moneys in the Treasury of the United States not otherwise appropriated, to pay the Creek Nation of Indians in the Indian Territory, as provided in third article of treaty proclaimed August 11, 1866, between said Creek Nation and the United States, said sum to be paid to said Indians per capita, under the direction of the Secretary of the Interior, as provided in said treaty."

In reply I have the honor to state that, on the 10th day of July last, a Creek delegation, consisting of L. C. Perryman, principal chief, N. B. Moore, treasurer, Ward Coachman, president House of Kings, and Roley McIntosh, speaker House of Warriors, addressed a communication to this office inclosing an act of a called session of the national council of the Creek Nation, approved June 22, 1889, by which act the Creek Nation appropriated the sum of $400,000 to make a per capita payment to the Creek people out of moneys secured to the nation by their treaty of 1866, for the purpose of relieving their pressing necessities and to afford means for the improvement of their houses and farms.

In the above letter of the delegation a request was made to be informed whether, under the third article of their treaty of 1866 (14 Stats., 757), a part of the consideration to be paid for the cession of their lands is at present available, and, if so, whether the consent of the Department could be obtained for the payment per capita to the Creek people of the sum named.

On the 19th day of July the papers referred to were submitted to the Department, with an opinion that "inasmuch as the $400,000 have never been directly appropri-

ated by Congress and are not carried on the books of the Treasury and this Department, and further, that the United States have never received any revenue from the sales of Creek lands to other Indians, the said amount can not be paid without an appropriation by Congress.

On the 24th day of July the Department replied to this report, concurring in the above opinion, and directed that the matter should be presented to Congress at its next session. Under the third article of the treaty above referred to the United States agreed that the sum of $400,000 should be paid in money and divided per capita to the Creek Nation, unless otherwise directed by the President of the United States, under the direction of the Secretary of the Interior, as the same may accrue from the sale of lands to other Indians. This provision of the treaty has never been carried out.

Under this article the Creeks are receiving by annual appropriation 5 per cent. interest on the sum of $675,168. The Creeks desire that $400,000 of this sum shall be appropriated.

The Creek Nation now has a principal amounting to $3,399,368, yielding an annual income of $169,968.40. If this appropriation shall be made by Congress, which is recommended by this office, the income of the nation will be reduced to $149,968.40—a reduction of $20,000—which sum will be ample for the support of its government, schools, and other institutions, and will be a saving to the United States in the sum of $20,000 annually.

I return herewith the letter of the chairman and inclosure.

Very respectfully,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, March 10, 1890.

SIR: Referring to office report dated the 4th instant, on House bill 3804, entitled "A bill to appropriate $100,000 to the Creek Nation of Indians, as per third article of treaty of 1866," I have the honor to supplement said report with the recommendation that said bill be amended by the addition of the following proviso, viz:

Provided, That the Creek Indians shall receipt to the United States for the above sum in full for the $400,000 named in the third article of the treaty between the United States and the Creek Nation, proclaimed August 11, 1866.

Very respectfully,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

MEXICAN POTTAWATOMIES OF KANSAS.

DEPARTMENT OF THE INTERIOR,
Washington, January 19, 1889.

SIR: I have the honor to acknowledge the receipt of your communication of 7th instant, inclosing House bill 11439, entitled "A bill to provide for the final settlement with the Mexican Pottawatomie Indians of Kansas, in accordance with certain treaty stipulations," with request for information thereon.

In response thereto I transmit copy of a communication of 18th instant, from the Commissioner of Indian Affairs, and accompanying copy of his report on this bill, dated October 2, 1888.

The Commissioner, in his letter of October 2, 1888, gives a history of the claim—the settlement of which is provided by the bill—and recommends the favorable action thereon by the Department and Congress. He now renews his former recommendation and invites attention to the fact that the Pottawatomies, of which these Indians form a part, have a large claim for arrearages of annuities now pending before Congress, and which fact should lead to a change in the proviso to the bill by amendment, otherwise they would be excluded from any benefit that might accrue to the nation by legislation hereafter.

The bill is herewith returned.

Very respectfully,

WM. F. VILAS,
Secretary.

CHAIRMAN COMMITTEE ON INDIAN AFFAIRS,
House of Representatives.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., January 18, 1889.

SIR: I have the honor to acknowledge the receipt by your reference of the 8th instant, for report, of a communication from the House Committee on Indian Affairs, dated the 7th instant, inclosing House bill 11439, entitled "A bill to provide for the final settlement with the Mexican Pottawatomie Indians of Kansas, in accordance with certain treaty stipulations."

The committee requests that it be furnished with any information in the possession of the Department in regard to the same.

In reply, I have to state that the bill herewith contemplated the payment of the sum of $27,011.60 to certain Mexican Pottawatomie Indians, who were entitled to the same under the treaty of February 27, 1867, with the Pottawatomie Nation (15 Stats., 531), but who were deprived of their share of the common fund of the nation when, in 1871, a list of the Pottawatomies was made of those who desired to become citizens of the United States, by reason of their absence in Mexico. Under the provisions of this bill the sum of $17,995.46 is to be appropriated out of funds in the Treasury not otherwise appropriated, and the sum of $9,016.14 from funds standing to the credit of said Indians on the books of the Treasury.

In connection with this claim, I have to state that it was the subject of report from this office to the Department, January 24, 1881, March 27, 1882, and October 2, 1888, in which latter report a full history of said claim was given, in which recommendation was made for the favorable action of the Department and of the Congress.

Attention is invited to the fact that the Pottawatomie Nation, of which these Indians form a part, have a large claim for arrearages of annuities now pending before Congress, and which fact should lead to a change in the proviso to the bill by amendment, otherwise they would be excluded from any benefit that might accrue to the nation by legislation hereafter.

I inclose a copy of report of this office dated October 2, 1888, in response to a call of the House Committee on Indian Affairs, on the bill herewith (H. R. 11439), with a renewal of the recommendation contained therein.

The papers referred are respectfully returned herewith.

Very respectfully,

JOHN H. OBERLY,
Commissioner.

The SECRETARY OF THE INTERIOR.

CLAIM OF THE SENECA INDIANS.

[House Ex. Doc. No. 340, Fifty-first Congress, first session.]

Letter from the Acting Secretary of the Treasury, transmitting a communication from the Commissioner of Indian Affairs for an appropriation to pay the claim of the Seneca Indians for land taken by the United States.

TREASURY DEPARTMENT, *April* 18, 1890.

SIR: I have the honor to transmit herewith for the consideration of Congress a communication from the Commissioner of Indian Affairs of the 14th instant, forwarded by the Secretary of the Interior, for an appropriation to pay the claim of the Seneca Indians for land taken by the United States, $2,881.60.

Respecfully yours,

GEO. S. BATCHELLER,
Acting Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, April 14, 1890.

SIR: I have the honor to inclose herewith a copy of a communication from G. W. Stidham, esq., a Creek Indian, in reference to a claim of the Seneca tribe of Indians in the Indian Territory, for certain lands taken by the United States under the first article of the treaty with said Indians of February 23, 1867 (15 Stats., 513), in excess of the amount therein ceded.

The treaty above mentioned provides for the cession by the Seneca Indians to the United States of 20,000 acres of land for the settlement of the Wyandottes, and for which the sum of $1 per acre was paid to the Senecas by the Government.

The first article of the treaty above referred to provides as follows:

"The Senecas cede to the United States a strip of land on the north side of the present reservation in the Indian country; the land so ceded to be bounded on the east by the State of Missouri, on the north by the north line of the reservation, on the west by the Neosho River, and running south for the necessary distance; to contain 20,000 acres; for which the Government is to pay $20,000 upon the ratification of the treaty; the south line of said tract to be ascertained by survey, at the cost of the United States."

Under the provisions of the foregoing article of the said treaty, the Wyandottes were settled upon the land in question, and the sum of $20,000 was paid the Senecas therefor.

An examination of the official plats of survey of this tract on file in this office, however, shows that the portion of land so taken by the Government and occupied by the Wyandottes contains 21,405.66 acres, being an excess of 1,405.66 acres over the amount ceded, for which no compensation has ever been paid to the Senecas.

In reference to the request of Mr. Stidham, set forth in his communication, that an estimate be made to pay the Senecas $1 per acre for the said portion of land taken in excess of the amount paid for, under the provisions of the said treaty, with interest from the date of the proclamation of said treaty, I have the honor to submit my opinion that the claim is a just one, and that the Seneca tribe should be paid the price mentioned for 1,405.66 acres, with interest at 5 per cent. per annum from July 1, 1869, the date on which the payment for the 20,000 acres became available.

As the Wyandottes have no money due them out of which payment for the said land could be made, I inclose herewith a draught of an item making the necessary appropriation from any money in the Treasury not otherwise expended, and have the honor to suggest that it be transmitted to Congress, with the recommendation that it be inserted in one of the appropriation bills.

Very respectfully, your obedient servant,

R. V. BELT,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

ITEM.

To enable the Secretary of the Interior to pay per capita to the Seneca tribe of Indians, in the Indian Territory, the sum of one thousand four hundred and five dollars and sixty-six cents for one thousand four hundred and five and sixty-six-hundredths acres of land taken from said tribe, without compensation by the United States, in excess of the amount authorized to be taken by the first article of the treaty with said tribe, concluded February twenty-third, eighteen hundred and sixty-seven, with interest thereon at five per centum per annum from July first, eighteen hundred and sixty-nine, the date on which the payment for the land taken became available; in all two thousand eight hundred and eighty-one dollars and sixty cents.

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322 FOUR-AND-A-HALF STREET, NORTHWEST,
Washington, D. C., January 6, 1890.

SIR: By reference to my letters of December 24, 1888, addressed to your predecessor, you will find that I presented a claim for the Seneca tribe of Indians located in the Indian Territory, for 1,406 acres of land set apart for the use of the Wyandotte Indians in 1867, which they have never been paid for, and requesting that an estimate be made for an appropriation to pay them. I again repeat the same request in their behalf.

Very respectfully, yours,

G. W. STIDHAM.

Hon. T. J. MORGAN,
Commissioner of Indian Affairs.

ORTHERN CHEYENNES AND ARAPAHOES ON TONGUE RIVER, MONTANA.

DEPARTMENT OF THE INTERIOR,
Washington, July 9, 1890.

SIR: I have the honor to inclose herewith copy of a communication from the honorable Commissioner of Indian Affairs, together with copies of reports of military officers in regard to the troubles at Tongue River Agency, Mont., in which he requests that Congress be urged to appropriate for the current fiscal year, in addition to any other appropriation proposed, $25,000 for the subsistence and civilization of the Northern Cheyennes on the Tongue River in Montana.

I heartily indorse the request of the honorable Commissioner and therefore respectfully urge that an item be inserted in the Indian appropriation bill for the fiscal year 1891, as he suggests, in order to meet the urgent necessities of his office with respect to these Indians.

Very respectfully,

JOHN W NOBLE,
Secretary.

Hon. H. L. DAWES,
Chairman Committee on Indian Affairs, U. S. Senate.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, July 8, 1890.

SIR: I have the honor to acknowledge the receipt of your communication of the 26th ultimo inclosing numerous reports by military officers in regard to the troubles at Tongue River Agency, Mont., and instructing me in particular, among other things, to endeavor to have the Indians there better fed, and to say in reply that this office, with the funds at present appropriated by Congress, will be unable to do much, if any, more in the way of furnishing these Indians with subsistence in the future than was done during the last fiscal year.

For the subsistence and civilization of the Northern Cheyennes and Arapahoes Congress last year appropriated $35,000, with the proviso that the amount should be expended pro rata as near as may be for the Northern Cheyennes and Arapahoes in Wyoming, and on the Tongue River in Montana. The same amount, with the same proviso, is included in the Indian appropriation bill for the fiscal year 1891, as it passed the House of Representatives. Of this the pro rata share of the Northern Cheyennes on Tongue River, Mont., will be $16,117.53. Experience has shown this office that this amount will not permit of the purchase of subsistence for these Indians in any greater quantities than has heretofore been purchased for them.

I therefore respectfully request that Congress be urged to appropriate for the present fiscal year, in addition to the $35,000 already referred to, $25,000 for the subsistence and civilization of the Northern Cheyennes on the Tongue River in Montana, and for that purpose to insert an additional item under the title "Miscellaneous Supports," in the Indian appropriation bill for the current fiscal year.

Copies of the reports of the military officers referred to in your letter of June 26 are herewith inclosed, which, with a copy of this letter, it is respectfully requested be forwarded to the chairman of the Senate Committee on Indian Affairs, with your approval and request for immediate consideration and favorable action.

Very respectfully,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

HEADQUARTERS DEPARTMENT OF DAKOTA,
St. Paul, Minn., May 20, 1890.

[illegible] honor to report as follows in response to the indorsement of Ap[illegible] the Army, and that of the 16th of April from the off[illegible]

Bannock Indians, and the other stating that a company of infantry would be needed at the agency all summer for the protection of life and property.

Upon the receipt of the papers, direction was sent to the commanding officer of Fort Custer that Major Carroll, First Cavalry, who, with a command of three troops of the regiment belonging to the garrison of Fort Custer, had been at the Tongue River Agency since April 14, report generally as to condition of affairs at the agency; the cause leading to or supposed to have led to the call a short time before made by the agent for military assistance; the attitude of the Indians in general, and in particular toward the agent, and the rules of the Interior Department, and whether it would be necessary or advisable to have a military force at or near the agency during the coming summer. Further direction was given the commanding officer of Fort Custer to continue the command of Major Carroll at the agency until further orders. Instruction was also given to cause the two "renegade Bannock Indians" at the agency to be arrested if to be found, provided they had or were doing harm or were cause of such trouble or dissatisfaction on the reservation as to render their arrest advisable, and that in case of arrest they be detained at Fort Custer until further orders.

With reference to the arrest of the two Bannocks it was reported by the Indian agent that "it was decided their arrest was not necessary, and they were dismissed with admonition to go at once to their reservation."

With respect to the necessity for a military force at the agency during the coming summer, it appears from the reports of Major Carroll that, whilst there is no spirit of hostility on the part of the Tongue River Cheyennes, there is general dissatisfaction—the principal grounds, as stated by them, to be insufficiency of food; the separation of the Cheyennes who are attached to Tongue River Agency from those at Pine Ridge, which involves in some instances the separation of members of families; the lack of necessary farming implements; scant supplies of clothing, which comes to them piecemeal, and lack of confidence in their agent. Other minor matters of complaint are stated in reports above referred to, made by Major Carroll, one of the 7th instant and one of April 20, copies of which accompany this, and enter quite fully into details relative to the present state of these Indians.

It will, in my opinion, be advisable to retain a force at the agency for a time, until a more settled state of affairs exists, and such would have been my purpose. In this opinion I have taken account also of the possibility that some if not the greater part of the Cheyennes of the Pine Ridge Reservation may attempt to join the Tongue River Cheyennes, which, if as likely would be known to those at Tongue River Agency, would cause more or less excitement there.

There is, as heretofore reported, a force detached from Fort Meade to prevent the Pine Ridge Cheyenne Indians from migrating to Tongue River.

With respect to the time a force will be required, whether for the summer, as requested by the agent, Mr. Upshaw, or less or more time, can not be stated in advance. And this leads me to say that the condition of affairs at this agency, which is naturally sequent to that in 1887, when in August some two hundred Cheyennes were returned by military force from the Tongue River to the Pine Ridge Agency, and at which time, as is evident, the reports then submitted, serious trouble was prevented only by the firmness and judicious action of the command, and particularly on the part of Lieutenant-Colonel Snyder, then major of the 5th infantry, who fortunately also had from former association with these Indians gained their respect and confidence. The principal grounds of dissatisfaction then, as now, were lack of confidence in their agent; lack of food, and enforced separation of the two parts of the tribe.

The essential question is, not whether a military force shall be kept for a few months, more or less, at the Tongue River Agency, but what action shall be had for the quiet and contended settlement of these Cheyenne Indians?

I would suggest that the attention of the Interior Department be invited to the necessity for amelioration in the condition of these Indians. The positive requirements for bettering their condition are, as I conclude, an increase of food, a thoroughly efficient agent, and that the parts of the tribe now at the two agencies of Tongue River, Mont., and Pine Ridge, S. Dak., be united on one reservation.

The quantity of food now issued at Tongue River Agency, as appears from the reports of Agent Upshaw (a copy accompanied the report of Major Carroll of April 22) is 75 pounds of beef and 40 pounds of flour, 2 pounds of coffee, 3½ pounds of sugar, and 2 pounds of salt per one hundred rations; also, it appears by the same report, the quantity of beef is less by 25 pounds per hundred rations than was issued in 1886. I think it evident that the allowance of food, in absence of other sources of supply, is not enough.

The term of office for which United States Indian Agent Upshaw was appointed will, I suppose, soon end. In the selection of his successor it is very desirable, in view of the quite long-continued state of dissatisfaction of these Indians, that especial care be exercised.

With respect to bringing together the two parts of the tribe, it is very desirable, if not essential, to insure content to the greater part of the Cheyennes at Pine Ridge as well as at the Tongue River Agency. This question was presented in connection with the duties performed by the troops in removing Cheyennes from Tongue River back to the Pine Ridge Reservation in 1887, and there was then a concurrence of opinion by the officers concerned that the union of the tribe should be effected. In this connection, I have for convenience of reference had copies made of reports made at that time and of my report, which are transmitted herewith. These reports present about the same general state of affairs at the Tongue River Agency as now exists.

There is the disadvantage of some lack of arable land, or that may by irrigation be made available, on the Tongue River Reservation, but there would be an advantage in placing all who desire it upon this reservation where they would be better satisfied than on the Pine Ridge Reservation, where the domination of the Sioux, of which the Cheyennes there complain, would not exist.

No doubt there would be strong local objection in Montana to any increase in the numbers of Cheyenne Indians on the Tongue River Reservation, especially as it would seem to indicate indefinite retention of the reservation. The land is chiefly valuable for grazing, but if so for such purpose for settlers and owners of cattle, it is, for like use, suitable for these Indians who are there and wish to remain.

Very respectfully, your obedient servant,

THOS. H. RUGER,
Brigadier-General, Commanding.

The ADJUTANT-GENERAL, U. S. ARMY.
(Through Headquarters Division of Missouri, Chicago, Ill.)

[Fifth indorsement.]

HEADQUARTERS DIVISION OF THE MISSOURI,
Washington, D. C., May 25, 1890.

Respectfully forwarded to the Adjutant-General of the Army, in connection with other papers on this subject, forwarded this day.

For the major-general commanding division:

THOMAS M. VINCENT,
Assistant Adjutant-General.

MISSION INDIANS OF CALIFORNIA.

DEPARTMENT OF JUSTICE,
Washington, D. C., June 21, 1890.

SIR: In a conversation yesterday at the Senate Chamber, you asked me to write with reference to the matter of the employment of Shirley C. Ward as attorney for the Mission Indians of California in their litigation for the settlement of the titles to their property. As you are aware, Mr. Ward was given an appointment, or a quasi appointment, from this Department in 1886, which has continued to a recent date; but by subsequent correspondence it is made to appear that the late Attorney-General, Mr. Garland, doubted his authority to make such appointment. I can not find in the statutes any provision warranting such appointment, as the Government is not directly or indirectly, except possibly in a moral sense, interested in the litigation.

There is doubtless much merit in the cause of these Indians, and perhaps a moral obligation on the part of the Government to defend their reservation, but it is now about four years since Mr. Ward's first appointment, and it seems to me that if it is the desire of Congress that the Department of Justice shall continue to defend the rights of these Indians, that desire should be manifested either by some resolution or legislation upon the subject. Of course this Department is quite willing to undertake this work, but in view of the statute forbidding any department from contracting any debts not provided for by law, it is deemed wiser to annul this appointment and bring the matter to the attention of Congress, which is accordingly done.

The inclosed copy of a letter from Mr. Shirley C. Ward, the attorney in charge of this matter, explains the situation.

Very truly yours,

W. H. H. MILLER,
Attorney-General.

Hon. HENRY L. DAWES,
United States Senate.

LOS ANGELES, CAL., *April*, 1890.

DEAR SIR: I inclose herewith my bill for services as special United States attorney for the Mission Indians in California from May 5, 1888, to April 1, 1890, rendered under appointment of January 14, 1886. (See letter N. N. R. 218, Department of Justice, dated January 14, 1886.) By referring to your letter of August 2, 1889, to the honorable Secretary of the Interior, a copy of which you forwarded to me, you will see that my compensation will have to be obtained by special Congressional appropriation. The bill has been approved by ex-Indian Agent Preston and by Major Rust, the present agent for this agency, and I now submit the same to you for your approval, and if approved by you I would like for you to refer the matter to Congress with your approval for immediate action by this session of Congress if possible.

The following is a more extended account of the service rendered than is contained in the bill itself, viz: The first service charged of representing the Indians in the case of John Morongo *et al. vs.* John C. North and Richard Gird, is a suit in equity in the United States circuit court for the southern district of California, and is brought to quiet and establish the title of the Indians to lands in the Patrero or Banning Reservation in San Bernardino County, California. The suit also stays all proceedings in an ejectment suit entitled North & Gird *vs.* J. W. Preston, United States Indian Agent, *et al.*, commenced in the superior court of San Bernardino County and removed by me from such court to the Federal court. The ejectment suit was commenced by Messrs. North & Gird against Col. J. W. Preston (the then United States Indian Agent for the Mission Indians), and the Indians in possession of some 1280 acres of land in the Potrero Reservation, being the most valuable lands in the reservation, and controlling almost the entire water supply of the Indians.

The case was intended as a test case as to the Indians' rights to all other lands in similar condition of title; nearly one-half of the lands in four townships resting upon the same state of facts, with the same laws applicable thereto. All of the trespassers upon such reservation had been evicted by the military under instructions from the Indian Department, and the ejectment suit of North & Gird *vs.* Presten *et al.*, was intended to test the Government's rights to cause such eviction. All proceedings in such suit were suspended upon filing the bill in equity in the case of Morongo *et al. vs.* North & Gird, and the taking of testimony in such case began over a year ago and has continued with adjournment from time to time ever since. A vast volume of testimony has been taken in the case and much more is yet to be taken.

The principal controversy of fact in the case is as to whether the lands in controversy were in the occupancy and possession of the Indians at the time of the transfer of sovereignty from Mexico to the United States, and it is upon the establishment of this fact in the affirmative that the successful maintenance of the rights of Indians depend. The difficulty of procuring reliable testimony as to a fact calculated to attract so little attention as the possession by Indians of a given tract of land at such an early period in this State's history, has been the great obstacle in this case, and it has required a thorough scouring of the whole country in search of such evidence, and the work has required much time and attention, and required the testimony to be taken at different places, some at Banning, some at San Bernardino, and some at Los Angeles. The Indians' title rests principally upon their possession at the time of the transfer of sovereignty from Mexico, but partially under executive orders of the President reserving the lands for Indian purposes.

The defendants' claim is principally under Congressional grant of odd sections to the Southern Pacific Railroad Company, but as to a portion of the land they hold patent from the State of California. If the case should be lost by the Indians a precedent will be established which will deprive them of their most valuable lands lying outside of Mexican grants, as all of such cases involve about the same questions of fact and law.

As to the second item in the bill, viz: The contest between the Indians and John J. Walsh. This was an audacious attempt upon the part of Walsh and some of his followers to jump an old Indian homestead, upon which the Indians had had their fields and orchards from time immemorial, but which, as it happened, had never been formally set aside by the President as Indian reservation, and had in no way been entertained by the Indians under any of the United States land laws, Walsh's idea being to secure the land which adjoins the Indian village of Agua Caliente and to establish thereon a drinking and gambling house and place of general debauchery, that Indians in the village might spend with him all their earnings. The attempt so far we have succeeded in frustrating. The matter is now on appeal by Walsh to the Secretary of the Interior. In securing our evidence and taking the testimony in the case it was necessary to go down into the mountains of San Diego County, to the little mining town of Julien, and the case required my absence from my office for about two weeks. Three briefs have already been filed in the matter.

As to the next matter charged in my bill, viz: Investigating the property rights of the Indians on the College Rancho, in Santa Barbara County, and negotiating with the ranch owners an adjustment of the Indians' rights thereon. This matter required

a trip to San Francisco and a search of the archives of the surveyor-general's office and the records of the old district court, to ascertain the condition of the ranch title and the right of the Indians thereon as reserved or established by the Mexican Government, or by the United States Land Commissioner, or the district court, and then a trip by steamer and stage to Santa Ynez, in Santa Barbara County, to view the premises in controversy and interview the witnesses and ranch owners. Upon a thorough investigation of all the facts I found that the Indians are entitled to a small portion of rather desirable lands on Sanja Cata Creek, but that they were becoming so hedged in by the surrounding lands being platted and mapped and filled up by white settlers, that it was desirable to find for them a better and more ample location upon the ranch, and this has been agreed upon by the ranch owners and myself. The ranch owners are to build the Indians comfortable houses and bring out water in an irrigating ditch to them, and to give them a much larger area of lands than they now own or claim.

As soon as this arrangement can be consummated, the Indians will be established in houses of their own, with unquestioned title, and their property interests and general welfare much improved. The matter has required several weeks of time and attention on my part, and I hope the adjustment will soon be financially consummated.

The next item in my bill, viz, services rendered in collecting data and making surveys preparatory to the bringing of some fourteen equity suits to establish the Indians' titles to their various villages and adjoining lands, on confirmed Mexican grants in San Diego County, has been a work requiring much time and attention and much negotiation with the ranch owners, and is the most important and far-reaching work I have had in hand for the Government.

These tracts include the principal and most valuable Indian lands in this agency, the several tracts embracing from twenty to four hundred acres each, and covering the most fertile lands located upon the various ranches. The gathering of the data necessary to bring the several suits has been going on for over a year, and has now been consummated, and the suits would have been begun ere this, but negotiations have at all times been pending for amicable settlement with the ranch owners, and as to two of the ranches there is still some hope of settlement with the owners. Since the law of these cases has been established by the decision of the supreme court of this State, in the case of Byone *vs.* Alas *et al.*, the cases will all be fought upon the facts.

As the last item of the bill, viz, services rendered from time to time in the way of legal advice to and counsel with the Indians and Indian agent, the services include miscellaneous advice and counsel rendered to the agent and the Indians from time to time during the past two years. Questions involving the landed and water rights of the Indians have constantly been coming up, and advice required as the proper mode of protection of such rights against the encroachments of trespassers.

These services I have not attempted in any way to itemize, but render my bill for what I consider the aggregate value thereof. If you desire any further particulars as to the service rendered by me, I would refer you to Mr. Frank D. Lewis, now special United States Indian agent, and to Major H. N. Rust, the present local agent for the Mission Indians, and to Col. J. W. Preston, ex-Indian agent for such Indians.

Hoping that the bill will meet with your approval, and that an appropriation for the payment will be made by this Congress, I am, respectfully,

SHIRLEY C. WARD.

Hon. W. H. H. MILLER,
United States Attorney-General, Washington, D. C.

NORTH CAROLINA CHEROKEES.

DEPARTMENT OF JUSTICE,
Washington, D. C., May 15, 1890.

SIR: I herewith transmit to you papers with reference to a matter which to my mind is of grave importance and needs special consideration by Congress. The papers that I send are:

First, a copy of a letter by the Indian agent, James Blythe, at the Cherokee Agency in North Carolina, dated April 14, 1890.

Second, a letter, without date, by Hon. B. C. Hobbs, of Bloomingdale, Ind., with reference to the same subject matter.

Third, a letter addressed to me by Assistant Attorney-General Maury, of this Department.

Fourth, a copy of a bill in chancery, filed by the United States in the circuit court for the western district of North Carolina, some two years ago.

These papers largely explain themselves. The simple fact seems to be that the

titles to the lands belonging to this Eastern Band of Cherokee Indians have by a series of transactions, which are set forth in the bill in detail, and more generally in Mr. Maury's letter, become entangled in such a manner that nothing except a successful prosecution of this suit can relieve the situation and give to these people an assured tenure of these lands. The task, however, is one involving immense labor and time, and, as we think, ought to be supported and backed by a special appropriation by Congress for this purpose.

In his letter addressed to me, Mr. Assistant Attorney-General Maury, who prepared and filed the bill, suggests that, in order to defray the expenses of this proceeding, an appropriation of $15,000 ought to be made. I will be greatly obliged if you will look into this matter, and if you desire further information, if you will call upon Mr. Assistant Attorney-General Maury he will be glad to come before your committee at any time and give you such detailed information in regard to the case as is in his possession.

I would suggest, also, that the Indian Office can give a good deal of valuable information in reference to the matter.

I ought to say that Mr. Hobbs is, as you probably know, a very eminent and worthy member of the Friends' Church, well known not only in Indiana, but generally throughout the United States; that he has been giving for years attention to the interests of these people, and I am assured by him that he will be glad to co-operate in any way in this matter.

Respectfully yours,

W. H. H. MILLER,
Attorney-General.

Hon. HENRY L. DAWES,
Chairman Committee on Indian Affairs, United States Senate

DEPARTMENT OF JUSTICE,
Washington, April 28, 1890.

SIR: Permit me to ask your attention to the case of the United States *vs.* William H. Thomas and others, now pending in the circuit court of the United States for the western district of North Carolina.

The bill in this case was filed nearly two years ago for the purpose of giving repose to the land titles of the Eastern Band of the Cherokee Indians, that being the name under which the part of the tribe of Cherokees are known who chose to remain in North Carolina when the rest of the tribe went to the Indian Territory pursuant to the treaty made at New Echota, on December 29, 1835 (17 Stat., 478).

The difficulties in which these North Carolina Indians became involved grew out of their dealings with one William H. Thomas, who seems to have had their unlimited confidence.

Thomas collected the money coming to them from the United States from time to time, and, what he did retain for supplies furnished them by him—for he did a large business in that way—he invested in land for their benefit, but took all the titles in his own name.

Thomas becoming embarrassed, three judgments were recovered against him for a large sum of money by William Johnston, one of the defendants. These judgments were liens on the land purchased by Thomas for the Indians.

To protect the Indians the Commissioner of Indian Affairs bought the judgments against Thomas, and they were assigned to him.

Afterwards, by an act approved August 14, 1876 (19 Stat., 139), Congress authorized the Commissioner of Indian Affairs to receive satisfaction of these judgments in certain lands "to be taken at their cash value, to be determined by an appraiser to be approved by the Secretary of the Interior, and conveyed to the Eastern band of the Cherokees in fee-simple, etc."

As to the action taken under the act of August 14, 1876, the bill states with particularity (paragraph 12, p. 13; see Appendix hereto) that it was characterized by a disregard of the ordinary rules of business and a recklessness of the interests of the Indians "and that suspicions hang around the said pretended settlement which, it is believed, nothing short of a thorough investigation by a competent master, acting under an order of reference by this honorable court, can dispel."

It can not be doubted that these distressing difficulties and complications growing out of the act of 1876 could have been prevented by the United States if proper persons had been employed to carry out that act; nor can it be doubted that it is the duty of the United States to extricate these Indians from the almost hopeless embarrassments under which they have been laboring for many years.

It is perhaps natural that a state of feeling has long existed between these Indians and the people of North Carolina that makes it proper that the jurisdiction of a Federal court should be invoked, and that also makes it proper that some lawyer of ability should be selected, who could not be supposed, from residence or affiliation, to have any prejudices or predilections in the matter, to act as master in the pending suit to disentangle the affairs of these Indians and report some scheme of relief.

To secure the services of such a person and to provide for any other expenses it is necessary that Congress should appropriate the sum of $15,000, at least, the same to be disbursed by the Attorney-General.

I have the honor to be, sir, your obedient servant,

WM. A. MAURY,
Assistant Attorney-General.

The ATTORNEY-GENERAL.

APPENDIX.

PARAGRAPH XII OF THE BILL.

XII. And your orator avers that in applying the said act of 14th August, 1876, there was an entire failure to use even so much as ordinary precaution to protect the interests of the said Indians, and that, as a consequence, great discontent and dissatisfaction have been the results of proceedings which were set on foot for the purpose of securing confidence and repose among the said Indians; that it was certainly the duty of those charged with receiving land in satisfaction of said judgments not to credit the same by the value of any lands held by individual Indians and not fully paid for until each Indian had been applied to to know what was due on his land and whether he was ready to pay it, and until those representing the interests of Thomas had surrendered the evidence of indebtment of such Indian; whereas your orator avers that such evidences of indebtment have never been delivered up and are still held by those in charge of the interests of said Thomas, who is now *non compos mentis*, and that no statement has ever been made to show the actual amount due from each Indian to the said Thomas; and your orator avers that it is not surprising to find, as the result of so negligent a course of conduct, that some Indians are constantly demanding conveyances from your orator, insisting that they owed nothing to said Thomas at the time their lands were applied in satisfaction of the said judgments; and your orator avers that in taking the said lands of Indians who had purchased from said Thomas in satisfaction of said judgments the lands so taken were applied to the judgments without regard to the amounts that had been paid Thomas by the Indians on the lands purchased, thus, to that extent, giving Thomas double satisfaction in each case for one and the same debt, and your orator avers that it has been pretended that what was owing Thomas by the Indians was considerably in excess of the value of the lands purchased, but your orator conceives that this is not probable, seeing that said Thomas or those charged with his interests would hardly have made a settlement so detrimental to those interests, and certainly it is not to be accepted as fact until said Thomas or those representing him have been compelled to produce the said evidences of debt and other data held by them, so that an account may be stated showing precisely what was due from each Indian; and your orator avers that although the said act of 1876 requires an appraisal of the lands received in discharge of such judgments to be approved by the Secretary of the Interior, a large part of the lands so received were not appraised, and it is charged, and believed to be true as charged, that such lands were taken at a valuation much beyond their cash value; that in some instances there was a total failure of title, and that in selecting said lands those representing the said Indians were forced to select without any opportunity to ascertain the character of the lands from which the selection was to be made; and your orator avers that so much dissatisfaction and discontent have grown out of the proceedings under the said act of 1876, and all parties directly concerned in applying said act have been so regardless of the ordinary rules of business and so reckless of the interests of the Indians, that it is not strange that those charged with said interests have never allowed the said judgments to be entered satisfied, but have kept the same operative and alive, and that suspicions hang around the said pretended settlement which, it is believed, nothing short of a thorough investigation by a competent master, acting under an order of reference by this honorable court, can dispel.

MEMORANDUM.

One William H. Thomas received, as agent of the North Carolina Cherokees, considerable sums of money which were left in his hands for investment in lands.

Thomas bought large tracts of land for the Indians, but took the titles in his own name.

Thomas became embarrassed, and several judgments were obtained against him amounting to $33,887.11.

These judgments became liens on the lands bought with the money of the Indians.

To protect the lands, thus encumbered, the Commissioner of Indian Affairs, under the supposed authority of the act of Congress of March 3, 1875 (18 Stat., 447, page 10 of the bill), bought the said judgments for the sum of $19,245.53, that being the amount then due on them, the said sum being taken from the money held by the Secretary of the Treasury in trust for the Indians, under the act of July 29, 1848 (9 Stat., 264, and page 2 of the bill).

By the act of August 14, 1876 (19 Stats., 139, and page 11 of the bill), it is provided that the Commissioner of Indian Affairs may receive in payment of these judgments certain lands at their cash value, to be determined by an appraisal to be approved by the Secretary of the Interior, and if such lands should not suffice, then such other lands as the said Indians might select, to an amount sufficient to satisfy the judgments.

It is in the pretended settlement of the judgments under this statute that the fraud and oppression were practiced that have filled the Indian community with discontent.

It is the principal object of this suit to restore these Indians to the rights of which they were deprived by fraud and coercion.

The United States, having applied the trust money of these Indians to the purchasing of these judgments, is in duty bound to leave no effort untried to secure them an equivalent for the trust money thus applied, either in money or land fairly appraised.

The United States is bound to have the settlement obtained by fraud and duress set aside, and sues as trustee under the act of Congress (*supra*) and as sovereign, in virtue of duties cast upon it by the treaty of New Echota.

WM. A. MAURY,
Assistant Attorney-General.

WASHINGTON, *June* 17, 1890.

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1511.

IN THE SENATE OF THE UNITED STATES.

JULY 17, 1890.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany petition of Isaac A. Kase.]

The Committee on Military Affairs, to which was referred the petition of Isaac A. Kase for an honorable discharge, have duly considered the same, and submit the following report:

This is one of the stereotyped petitions, with a printed heading, purporting to be signed by the claimant without date or any affidavit. In this petition the claimant states that on February 2, 1865, he enlisted as a private in Company G, Forty-seventh Pennsylvania Volunteers, for a period of one year or during the war, and served until the 1st of June, 1865, when he left his command under the following circumstances:

The regiment to which he belonged was then stationed at Washington, and on or about the aforesaid 1st day of June received orders to proceed south to Savannah, Ga.; that when such orders were received a large number of the men of said regiment left their command and went to their respective homes.

That your petitioner, being young, inexperienced, and entirely ignorant of military laws and usages, and being governed by the action and advice of other and older members of his company, also, then and there, left his command and proceeded to his home. * * * That your petitioner did not then think, intend, or mean to desert, but the war being over and no armed enemy in the field he thought he had complied with the terms of his enlistment (one year or during the war), and was so told and advised by other members of the company.

Your committee referred the petition to the Secretary of War for information and report, and received in reply the following letter and accompanying report:

WAR DEPARTMENT,
Washington City, July 11, 1890.

SIR: In reply to your request of the 9th instant, for information upon petition to provide for the relief of Isaac A. Kase, Company G, Forty-seventh Pennsylvania Volunteers, I have the honor to inclose a report from the officer in charge of the record and pension division of this Department.

Very respectfully,

L. A. GRANT,
Assistant Secretary of War.

Hon. JOSEPH R. HAWLEY,
Chairman Committee on Military Affairs, U. S. Senate.

Case of Isaac A. Kase, late a private in Company G, Forty-seventh Pennsylvania Volunteers

RECORD AND PENSION DIVISION, *July* 11, 1890.

The official records show that this soldier, as Isaac Kase, was enrolled on February 2, 1865, for the period of one year, and that he served until June 1, 1865, when he deserted, never thereafter rejoining his command, which remained in service until December 25, 1865, nor reporting his whereabouts or the cause of his absence to the proper military authorities of the United States.

In February, 1888, the Hon. W. H. Sowden, M. C., transmitted certain testimony looking to the removal of the charge of desertion standing against the record of said soldier, the nature of which is not now known to the Department, it having been returned to Mr. Sowden on March 6, 1888, but on March 3, 1888, the latter was informed in reference to the soldier's desertion that "his own statement that he left his command without authority on the eve of its departure for Savannah, Ga., being induced to do so by older and more experienced comrades, clearly establishes the correctness and justness of the charge of desertion, and as he did not serve six months in the Army prior to May 1, 1865, he is not entitled to the benefits of the act of Congress approved July 5, 1884.

"The Department is, consequently, not empowered to afford any relief in the case."

Since this letter was written no testimony has been received bearing on the case, the status of the soldier still remaining unchanged under existing law (act of Congress, approved March 2, 1889.)

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon U. S. Army.

The SECRETARY OF WAR.

The official record shows that the claimant was enrolled on February 2, 1865, for the period of one year, and on June 1, 1865, deserted and never rejoined his command, which remained in the service until December 25, 1865, nor reported his whereabouts or the cause of his absence to the proper military authorities.

According to the claimant's own petition he left his command without leave or furlough and without any intention of returning to the same, and never thereafter reported to his company officers or to the proper military authorities the reasons for his absence. He thus decided for himself and must take the consequences of his own decision. His enlistment was for one year, and he refused to serve out that term and returned to his home, and therefore is not entitled to any relief from his own voluntary acts and their consequences.

Your committee therefore report the petition back to the Senate and recommend that the prayer of the petitioner be not granted, and that your committee be discharged from its further consideration.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1512.

IN THE SENATE OF THE UNITED STATES.

JULY 17, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5099.]

The Committee on Pensions, to whom was referred the bill (H. R. 5099) granting a pension to Mrs. Angeline Greene, dependent mother of Edwin Spurgin, Alexander Greene, Allen Greene, and William Greene, soldiers of the late war, have examined the same and report:

That from the facts stated in the House report, which is hereto attached and made a part hereof, we believe this to be a meritorious measure, and do recommend the passage of the bill.

[House Report No. 1516, Fifty-first Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5099) for the relief of Mrs. Angeline Greene, submit the following report:

The proposed beneficiary is the mother of six sons, five of whom served in the Union Army during the war.

Edwin served in Company I, Twenty-seventh Indiana Volunteers; is now almost totally blind, and has a family dependent upon him. Alexander was a member of the Seventy-third Indiana Volunteers, and was wounded in action, and is poor, with a large family to maintain. Allen Greene, while serving as a private in Company D, Sixty-seventh Indiana Volunteers, died, leaving a widow, who drew a pension for a few years and remarried and since died. William Greene served in Company C, Twenty-seventh Indiana, lost an arm, and also has a large family to provide for. Alfred Greene was a member of the Twenty-first Indiana Volunteers, is almost totally blind, and likewise the head of a family.

The other son is a cripple and has been so from childhood. Claimant's husband has been dead these many years. She has no property nor income from any source, except that received from her own labor, taking in washing, which at the age of seventy years she should no longer be required to do.

Having given five sons to her country's service, and being now old and poor, her prayer for relief at the hands of Congress should, in the opinion of your committee, meet with prompt and favorable response, and the accompanying bill is therefore returned with the recommendation that it do pass.

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1513.

IN THE SENATE OF THE UNITED STATES.

JULY 17, 1890.—Ordered to be printed.

Mr. BATE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 3600.]

The Committee on Military Affairs, to whom was referred the bill (S. 3600) for the relief of Henry L. Mulvin, having considered the same, report:

This is a bill directing the issuance of an honorable discharge to Henry L. Mulvin, late private Company L, Twelfth Regiment Pennsylvania Cavalry. Upon a reference of the matter to the War Department the following report of his record is submitted and incorporated into this report as a part thereof:

CASE OF HENRY MULVIN, LATE PRIVATE COMPANY L, TWELFTH PENNSYLVANIA CAVALRY VOLUNTEERS.

RECORD AND PENSION DIVISION, *April* 25, 1890.

Henry Mulvin, private Company L, Twelfth Pennsylvania Cavalry Volunteers, was enrolled on March 1, 1862, to serve three years, and re-enlisted as a veteran volunteer on February 29, 1864, after which his record is good until June 5, 1865. From the record of a general court-martial, convened about June 15, 1865, at Winchester, Va., it appears that he was arraigned before that court on the following charges:

(1) Striking his superior officer. (2) Offering violence to his superior officer. (3) Disobedience of orders. (4) Contempt and disrespect to his commanding officer. (5) Conduct prejudicial to good order and military discipline.

These offenses were all committed on June 5, 1865, as appears from the specifications.

He was found guilty of each charge and sentenced "to forfeit all pay, bounty, and allowances now due him or that may become due him from the United States, and be confined at hard labor on any public works the commanding general may direct for and during the period of two years."

The commanding general, Middle Military Division, after approving the proceedings, findings, and sentence of the court (and designating Fort Delaware as the place of confinement), promulgated the same in General Orders No. 66, from his headquarters, dated July 16, 1865.

The records show that while awaiting the promulgation of the findings and sentence of the general court-martial in his case, Mulvin deserted from confinement on June 20, 1865, and never returned. His company was mustered out of service on July 20, 1865, four days after promulgation of the sentence.

In 1870 this man applied for an honorable discharge, and stated that about July 1, 1865, he left his regiment without leave at Winchester, Va.; that he became intoxicated, was thereupon arrested and confined in the guard-house, in which he remained a few days and then escaped and went to Charlestown, Va., remaining in that vicinity, as he expected that his regiment would be mustered out there, and intended to report to his officers at that time; but the regiment went to Philadelphia, and he followed and reported to his captain, who declared himself willing to give him a discharge, but unable to do so because Mulvin had already been reported as a deserter.

The foregoing statement of the applicant is corroborated by the affidavits of O. B. Tourtelott, late captain, and of two enlisted men of the company in which Mulvin served.

(Neither the applicant nor either of the corroborating witnesses refers to the fact of the trial by general court-martial as above set forth.)

It was determined, after due consideration of the record and testimony, that the War Department is not empowered to grant the desired relief, and the authorized attorneys were so informed by letter of May 19, 1870.

No further testimony has been submitted in this case.

Under the provisions of section 7 of the act of Congress approved March 2, 1889, the Department is prohibited from removing the charge of desertion from the record of this soldier, as he deserted while in arrest and under charges for breach of military duty, and an honorable discharge can not, therefore, be issued to him under existing law.

The name of this soldier is not borne on the records as Henry L. Mulvin.

Respectfully submitted,

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

The SECRETARY OF WAR.

The act of Congress referred to in this report, approved March 2, 1889, chapter 390, section 7, is as follows:

That the provisions of this act shall not be so construed as to relieve any soldier from the charge of desertion who left his command from disaffection or disloyalty to the Government, or to evade the dangers and hardships of the service, or whilst in the presence of the enemy (not being sick or wounded), or while in arrest or under charges for breach of military duty, or in case of a soldier of the Mexican war, who did not actually reach the seat of war.

Pending the promulgation of the findings and sentence of the court-martial, he deserted June 20, 1865, and never returned to his command, at least the records so show.

Mulvin states that he was near his command all the time, and that he had no intention of deserting, and in this statement he is corroborated by several witnesses, but the fact is, he was not with his command, and was in a state of desertion when his command was mustered out, and so stands upon the record.

Whatever his intentions, his acts were desertion, and it is by his acts and not his intentions he must be measured. The explanation that he was drinking when he became disrespectful to his superior officer can not excuse him. It might have gone in mitigation at the time, and doubtless would have done so had the court-martial thought him entitled to it. The facts of the case were all fresh when it was heard and as a consequence the court-martial was better capable of correctly judging than we can be at this late date, and while the punishment may now seem to us to have been severe, your committee do not feel justified in overturning and setting aside the deliberate finding of a court-martial whose opportunities were superior for arriving at a correct decision The records in this case, with the evidence subsequently filed, show Mulvin to have been a good soldier, faithful to his duties up to the time of this offense and court-martial. There can be no doubt of the correct construction by the War Department of the law quoted, and which manifestly must govern in this character of cases.

He deserted and *was* a deserter at the time his command was mustered out of the service, and upon this basis his record was made up.

Your committee therefore report adversely to the passage of the bill and recommend its indefinite postponement.

O

51st Congress, 1st Session. | SENATE. | Report No. 1514.

IN THE SENATE OF THE UNITED STATES.

July 17, 1890.—Ordered to be printed.

Mr. Cockrell, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 3100.]

The Committee on Military Affairs, to which was referred the bill (S. 3100) to remove the charge of desertion from the military record of Peter J. Soly, have duly considered the same, and submit the following report:

Accompanying this bill there was presented to your committee what seems to be a kind of stereotyped petition, with a printed heading, and signed by the claimant by his attorney, not verified by affidavit, and not supported by one particle of evidence. In this petition it is stated that the claimant enlisted in Company E, Seventeenth Regiment Massachusetts Volunteers, July 22, 1862, served faithfully until December, 1864, when, without any intention of deserting, he left his command under these circumstances:

He received a furlough of thirty days to return to his home, where he was taken sick with fever a couple of weeks after his arrival, and after six or seven weeks his condition was such that there seemed no hope of his recovery, and that when he did recover, he was so weak and the climate was so severe that it would have been fatal for him to have ventured out; that when the spring-time arrived and he was able to go out, he decided to join his regiment, notwithstanding the report that he would be shot as a deserter, and he was actually on his way to the front when President Lincoln was shot, and that unfortunate event so scared and upset him that he lost heart and failed to report to his regiment before it was mustered out. Feeling entirely guiltless of the charge of desertion, he applied to the War Department to have the charge removed, which application was, however, rejected.

This petition is not even dated, and not verified by any affidavit, and is accompanied by no evidence whatever.

Your committee referred the bill to the Secretary of War for report and information, and in reply received the following letter and accompanying statement:

War Department,
Washington City, April 2, 1890.

Sir: In reply to your request of the 31st ultimo for information upon Senate bill 3100, Fifty-first Congress, first session, to provide for the relief of Peter J. Soly, Company E, Seventeenth Massachusetts Volunteers, I have the honor to inclose a report from the officer in charge of the record and pension division of this Department.

Very respectfully,

Redfield Proctor,
Secretary of War.

Hon. Joseph R. Hawley,
Chairman Committee on Military Affairs

CASE OF PETER J. SOLY, LATE CORPORAL COMPANY E, SEVENTEENTH MASSACHUSETTS VOLUNTEERS; TRANSFERRED TO COMPANY C, SAME REGIMENT.

RECORD AND PENSION DIVISION, *April* 2, 1890.

Peter J. Soly, was enrolled on July 22, 1862, a private in Company E, Seventeenth Massachusetts Infantry Volunteers, to serve three years. A detachment muster-out roll of the company, dated January 16, 1864, reports him "mustered out, a private, at New Berne, N. C., to date December 31, 1863, by virtue of re-enlistment as veteran volunteer, under the provisions of General Orders 191, series of 1863, from the War Department."

He was afterward transferred to Company C, same regiment, and is reported on the muster roll of that company of February 28, 1865, "Deserted; received a veteran furlough of forty days in Massachusetts, and failed to return to his company. The regimental return for January, 1865, reports him "Corporal Company C, deserted November 10, 1864, at Boston, Mass.; deserted while on furlough."

No application for removal of the charge of desertion, or testimony in this case, has been submitted to the War Department.

As the case stands existing law affords no relief.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

The SECRETARY OF WAR.

According to this official statement, no application has been made to the War Department for the removal of the charge of desertion, and after a lapse of twenty-five years since the charge was made, this claimant comes to Congress with a mere petition, signed by his attorney, and apparently relies upon Congress to grant him relief by removing the charge of desertion from his military record, which has been standing against him for twenty-five years, and which does not seem to have enlisted even his attention or consideration.

Under the general law, the War Department has ample power to remove this charge of desertion, if he can show satisfactorily that whilst upon furlough he was taken sick and was physically unable to return and rejoin his regiment; and this soldier must go to the War Department under the general law.

There is no ground whatever justifying favorable consideration of this case by your committee.

Your committee therefore report the bill back adversely and recommend that it be indefinitely postponed and the relief prayed for be not granted.

O

51st Congress, 1st Session. | SENATE. | Report No. 1515.

IN THE SENATE OF THE UNITED STATES.

July 17, 1890.—Ordered to be printed.

Mr. Cockrell, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 537.]

The Committee on Military Affairs, to which was referred the bill (S. 537) for the relief of William Millican, have duly considered the same and submit the following report:

This bill directs the Secretary of War to remove the charge of desertion from the military record of William Millican, of Company I, Twelfth Kentucky Volunteers, and grant him an honorable discharge.

Your committee referred the bill to the Secretary of War for information and report, and received in reply the following letter and accompanying report:

War Department,
Washington City, July 10, 1890.

Sir: In reply to your request of the 9th instant for information upon Senate bill 537, Fifty-first Congress, first session, to provide for the relief of William Mellican, Company I, Twelfth Kentucky Volunteers, I have the honor to inclose a report from the officer in charge of the record and pension division of this Department.

Very respectfully,

L. A. Grant,
Assistant Secretary of War.

Hon. Joseph R. Hawley,
Chairman Committee on Military Affairs.

CASE OF WILLIAM MILLICAN, LATE PRIVATE COMPANY I, TWELFTH KENTUCKY INFANTRY VOLUNTEERS.

Record and Pension Division,
July 10, 1890.

William Millican, private Company I, Twelfth Kentucky Infantry Volunteers, was enrolled on March 8, 1862, to serve three years, and was present with his company on December 31, 1862. The company muster-rolls of February 28 and April 30, 1863, report him absent without leave March 2, 1863, at Lebanon, Ky. (at which place the command was stationed on February 28, 1863).

The roll of June 30, 1863, shows him deserted on March 2, 1863. He returned to his command in September, 1863, and was restored to duty without trial by virtue of the following order:

Special Field Orders No. 80. | Headquarters Army of the Ohio,
November 15, 1863.

* * * * * * * *

2. Upon the recommendation of the commanding officer, the following enlisted men reported as deserters of the Twelfth Kentucky Volunteer Infantry are hereby restored to duty with loss of all pay and allowances due them for the time they were absent without leave * * * William Milliken, private, Company I.

By command of Major-General Burnside.

Edward M. Neill,
Assistant Adjutant-General.

The muster-roll of December 31, 1863, defines the period of his absence without leave from March 2, 1863, until September 2, 1863.

His record subsequent to rejoining his command in September, 1863, until he was mustered out on February 3, 1865, appears to be very good; he was wounded on May 14, 1864, in action at Resaca, Ga.

The detachment-roll on which he was mustered out states the period of his absence without leave from March 2, 1863, to September 6, 1863.

This man has applied for removal of the charge of desertion from his record and in an affidavit dated June 22, 1886, testified that about March 2, 1863, he learned that his mother was then destitute and without a home, his father having enlisted in the rebel army; thereupon he went to her assistance, intending to return within a few days, but while he was with his mother he was cut off from his regiment by rebel troops under John A. Morgan, and was thus prevented from rejoining his regiment until the following September.

No other testimony has been submitted in the case.

On January 13, 1887, it was determined by the Department that the restoration of this soldier to duty by competent authority without trial, but upon certain conditions, accepted and performed by the soldier (so far as not waived by the Government), is a legal bar to any further action by the War Department, and is a final disposition of the case; and that the record of the fact of his unauthorized absence from March 2, 1863, to on or about September 2, 1863, can not be expunged.

The authorized attorney was so informed by letter of January 19, 1887, since which date the status of the case has not been changed by subsequent legislation.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

The SECRETARY OF WAR.

The above report speaks for itself. This soldier absented himself without leave, in March, 1863, from his proper command, and remained so absent until September, 1863, when he returned to his command, and being liable to court-martial proceedings, the commanding general, upon the recommendation of his company officers, ordered this soldier, with others, to be restored to duty, with loss of all pay and allowances due for the time they were absent without leave. This order was doubtless well known to this soldier and the others who were similarly situated, and he and they doubtless very gladly accepted this very mild punishment, simply forfeiting their pay while they were doing no service for the Government and taking no risk in its interest in the line of duty. It would have been just as easy, much easier in fact, for this soldier to have presented to his company and regimental officers and through them to his commanding general, the reasons for his absence, and to have appealed then to their clemency and sound discretion, than to have rested quietly under the official record above shown for twenty-three years, and then ask the War Department to remove the record, to the making of which he doubtless consented, simply upon his own statement.

That the soldier was absent without leave is not questioned by him, and that upon his return to his command he was restored to duty with loss of his pay and allowances during the time of such absence, is a fact shown by the record and was acquiesced in by him. There is therefore no record which can be or ought to be corrected or removed. There is no ground whatever for granting the relief claimed in this bill.

Your committee therefore report the bill back to the Senate adversely, recommend that it be indefinitely postponed and the relief prayed for be not granted.

O

51st Congress, 1st Session. | SENATE. | Report No. 1516.

IN THE SENATE OF THE UNITED STATES.

July 17, 1890.—Ordered to be printed.

Mr. Cockrell, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 1010.]

The Committee on Military Affairs, to whom was referred the bill (S. 1010) to remove the charge of desertion from the record of James Boyle, have duly considered the same and submit the following report:

The bill was referred to your committee without any accompanying evidence or statement.

Your committee referred the same to the Secretary of War for information and report, and received in reply the following letter and accompanying report:

War Department,
Washington City, July 12, 1890.

Sir: In reply to your request of the 9th instant for information upon Senate bill 1010, Fifty-first Congress, first session, to provide for the relief of James Boyle, Company C, Sixty-ninth New York Volunteers, I have the honor to inclose a report from the officer in charge of the record and pension division of this Department.

Very respectfully,

L. A. Grant,
Assistant Secretary of War.

Hon. Joseph R. Hawley,
Chairman Committee on Military Affairs.

Case of James Boyle, alleged to have been a member of Company C, Sixty-ninth New York Volunteers.

Record and Pension Division, *July* 12, 1890.

The name James Boyle is not borne on the rolls of the above-named organization. On December 3, 1887, in an application for the removal of the charge of desertion, James Boyle, *alias* James Black, claimed to have served in Company C, Sixty-ninth New York Volunteers, and it appears from the official records that James Black was enrolled January 16, 1864, as a private in Company C, Sixty-ninth New York Volunteers, for the period of three years and that he served faithfully in that organization until May 18, 1864, when he was wounded in action at North River, Virginia. From the medical records it appears he was wounded in "lower maxillary; fleshy; slight; by minnie ball;" that he was treated in the Columbian College General Hospital, District of Columbia, from May 18 to 27, 1864, for wound of both cheeks; that he was admitted to Satterlee General Hospital, West Philadelphia, May 28, 1864, for gunshot wound of neck, and deserted therefrom June 16, 1864.

While a deserter at large and in violation of the twenty-second (now fiftieth) Article of War, he enlisted under the name John Burton, July 14, 1864, as a private in Company E, Second Massachusetts Heavy Artillery, and served faithfully therein until September 2, 1865, when he was mustered out with his company at Smithville, N. C.

The following is a synopsis of the testimony which has heretofore been submitted to the Department in connection with application for removal of the charge of desertion, to wit:

Under date of December 3, 1887, the soldier (as James Boyle) testified that he left the hospital about July 1, 1864, and was induced by friends to enlist in Company E, Second Massachusetts Heavy Artillery, under the name John Burton; that his second enlistment was not to secure higher pay or bounty, and that he did not receive any State or local bounty, and no higher Government bounty than if he had remained in the first organization.

On February 7, 1888, the application for an amendment of record was denied on the ground that the case was not embraced within the provisions of the act of Congress approved May 17, 1886, "as his re-enlistment appears to have been made for the purpose of securing bounty or other gratuity to which he would not have been entitled had he remained under his original enlistment."

Since then, no new testimony has been introduced, and the status of the soldier remains unchanged under existing law (act of Congress approved March 2, 1889).

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

The SECRETARY OF WAR.

There is no foundation whatever upon which this claimant can rightly claim the amendment of his record.

Your committee therefore report the bill back to the Senate adversely, and recommend that it be indefinitely postponed and the relief prayed for be not granted.

O

51st Congress, 1st Session. | SENATE. | Report No. 1517.

IN THE SENATE OF THE UNITED STATES.

July 17, 1890.—Ordered to be printed.

Mr. Walthall, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 3263.]

The Committee on Military Affairs, to whom was referred the bill (S. 3263) for the relief of Lewis G. La Tour, having considered the same, report as follows:

This case was investigated by this committee and an adverse report made at the first session of the Fiftieth Congress, which is hereto appended.

Your committee, upon re-examination, adhere to its original conclusion and recommend that this bill be indefinitely postponed.

REPORT MADE TO FIFTIETH CONGRESS.

Your committee are unable to discover anything in the facts of this case to justify legislation excepting it from the operation of the general law applicable to other cases of the same character, and they therefore recommend that the bill be indefinitely postponed, and attach hereto a communication showing the views of the Treasury Department on the subject.

Treasury Department, Second Auditor's Office,
Washington, D. C., March 26, 1888.

Sir: In reply to your letter of the 22d instant, addressed to the honorable Secretary of the Treasury, requesting suggestions or recommendations with reference to the accompanying copy of a bill for the relief of Louis G. La Tour, late of Company H, Fourteenth Connecticut Volunteers, I have the honor to inform you that it appears from the records of this office that the said La Tour presented September 28, 1882, a claim for arrears of pay and bounty, and that a settlement was made in his favor September 25, 1884, by which he was allowed the sum of $75, being the balance of bounty due under the act of July 22, 1861 (12 Statutes, 268).

He was not allowed the additional bounty granted by the act of July 28, 1866 (14 Statutes, 310), for the reason that he had not presented a claim therefor before July 2, 1880, as required by the act of July 5, 1876 (19 Statutes, 74), which extended the time for filing such claims to July 1, 1880.

There is now no statutory authority for the consideration or payment, by the accounting officers, of claims for which provision was made by the twelfth and thirteenth sections of the act of July 28, 1866, owing to the limitation herein noticed, unless filed before July 2, 1880. It is proposed by this bill to allow the petitioner the same bounty to which he would have been entitled had he availed himself of the privilege which was open to him of presenting his claim between July 28, 1866, and July 1, 1880. I am unable to discern, either from the title or text of the bill, or from an examination of the papers of his claim in the files of this office, any reason why he should be excepted from the effect of the statute of limitation, and become the

subject of special legislation apart from other persons similarly situated, who have failed to present claims of the same character within the period prescribed by law.

The bill (H. R. 1413) of a general nature pending in the House of Representatives, reported favorably from the Committee on War Claims, contemplates another extension of the time for filing claims for additional bounty under the act of July 28, 1866, and, should it become a law, the act would afford relief to a class of dilatory applicants now quite numerous, including the person named in the bill. This bill contains two errors to which I call your attention; one in line 7, where the word "eighty" should be "sixty," the other in line 12, where the word "eighty-six" should be changed to "eighty."

Respectfully, yours,

J. B. CALDWELL,
Acting Auditor.

Mr. W. P. HUXFORD,
Clerk Committee on Military Affairs, United States Senate.

O

51st Congress, 1st Session. | SENATE. | Report No. 1518.

IN THE SENATE OF THE UNITED STATES.

July 17, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9783.]

The Committee on Pensions, to whom was referred the bill granting a pension to Mary Ferguson, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9783) granting a pension to Mary Ferguson, submit the following report:

That the evidence furnished this committee shows that the beneficiary, a maiden lady, adopted about the year 1842, the soldier, Thomas Ferguson, then an infant about nine months of age, gave him her own name, brought him up, clothing and educating him, assisting him to learn a trade; he in the mean time living and making his home with her until the year 1862, when he enlisted in the Seventh New York Independent Battery, in which he served until the close of the war.

That on his return home he was sick with a hard cold and from disease of the lungs; that immediately on his return from the Army he went to the home of the beneficiary and continued to live with her, being cared for and nursed by her until his death, January 10, 1870. That from the time of his return home, broken down in health, he continued to be sick, unable to perform manual labor to any considerable degree, continually growing weaker until his death, as above stated, which was clearly shown to be the result of his Army service.

This beneficiary, now eighty years of age, is now poor, with no means of support, and dependent upon her relatives. She discharged all the duties of a kind mother during the infancy and childhood of the soldier and during the years of his long-continued sickness, nursing him and closing his eyes in death. He knew no other mother, and to her he gave his filial love.

Believing the bill to be meritorious we would recommend its passage with an amendment, inserting after the word "pension," in the seventh line, the words "at the rate of $12 per month."

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1519.

IN THE SENATE OF THE UNITED STATES.

JULY 17, 1890.—Ordered to be printed.

Mr. CAMERON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 2890.]

The Committee on Military Affairs, to whom was referred the bill (S. 2890) to grant re-muster and pay to John A. Spielman, having had the same under consideration, beg leave to submit the following report:

John A. Spielman was mustered into service and appointed first sergeant of Company K, Seventeenth Iowa Volunteers, April 16, 1862, to serve three years.

On the rolls of his company from April 30, 1862, to December 31, 1862, he is reported first sergeant, present for duty.

He was mustered in as a second lieutenant, same company and regiment, to date from December 3, 1862, and was honorably discharged as such on tender of resignation July 18, 1863.

The records show that he was commissioned second lieutenant Company K, November 28, 1862, to fill a vacancy created by the promotion of C. W. Woodrow to first lieutenant, October 1, 1862.

Under the provisions of the act approved June 3, 1884. and the acts amendatory thereof, the military record of Mr. Spielman was amended by this Department to show him recognized as second lieutenant Company K, Seventeenth Iowa Volunteers, from November 28, 1862, date of his commission as such.

On January 22, 1890, his claim for recognition as second lieutenant, same company and regiment, from October 1, 1862, to November 28, 1862, under the acts referred to, was denied by the Department for the reason that he was not commissioned as such until the latter date.

This case is similar to the many cases which your committee have uniformly reported against, and they see no reason for changing their rule in this instance, especially in view of the fact that he has already received all the relief that he is entitled to by the act of June 3, 1884.

The committee, therefore, report the bill adversely and recommend its indefinite postponement.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1520.

IN THE SENATE OF THE UNITED STATES.

JULY 17, 1890.—Ordered to be printed.

Mr. CAMERON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 4272.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4272) for the relief of Robert McFarland, having had the same under consideration, beg leave to submit the following report:

The facts in this case are fully set forth in the House report on this bill, which are as follows:

The claimant in this case enlisted in Company B, Fifth Illinois Cavalry in August, 1861, and served faithfully with his regiment and company until August, 1865, in such a manner as to win the respect of his comrades and the commendation of his officers.

In July, 1865, a portion of his regiment was ordered to Texas to do duty along the frontier. Some of his comrades were disposed to question the right of the Government to thus keep them in service after the war was closed, and some discontent was manifested among the command, but was not participated in by McFarland.

While proceeding up Red River McFarland was ordered by an officer of his command, but not of his company, to take a detail of three men and make an arrest of some of the more turbulent of his comrades. McFarland attempted to execute the order, but found his force too small, and so reported to the officer giving the command. This was taken by the officer as a refusal to obey, and, although he again went back and attempted to make the arrest, he with his detail was taken by the order of such officer and placed under arrest in the hold of the vessel, and subsequently he was tried, convicted, and sentenced to the loss of all pay and confinement for three years at the Dry Tortugas. This evidence all appears in affidavits on file made by officers and men, a part of which is added to and made a part of this report, together with the report of the Adjutant-General.

Your committee believe that a gross injustice has been done this soldier; that he was more sinned against than sinning. His record as a soldier up to this time was an enviable one. He had served his adopted country faithfully through almost the entire period of the war, had won general esteem and confidence, and your committee believes that the punishment inflicted was terribly unjust and should be righted as far as can be at this late day.

We have added the report of the Adjutant-General and a part of the evidence, which covers all the facts of the case, and recommend the passage of the bill.

Case of Robert McFarland, late of Company B, Fifth Illinois Cavalry Volunteers.

He was enrolled August 27, 1861, and mustered into service November 8, 1861, a private, Company B, Fifth Illinois Cavalry Volunteers; re-enlisted as a veteran volunteer January 1, 1864, and is properly reported on rolls to include June 30, 1865. Company muster-out roll, dated October 27, 1865, reports him "discharged by general court-martial August 7, 1865." (Period of each enlistment three years.)

He was tried by general court-martial on the charges of "disobedience of orders" and "mutinous conduct prejudicial to good order and military discipline," found guilty, and sentenced to be dishonorably discharged the service, with loss of all pay and allowance due or to become due, to have his head shaved by the provost-marshal, and to be confined at hard labor, in any military prison, to be designated by the commanding general, for three years. Proceedings, findings, and sentence approved and promulgated, and Dry Tortugas designated as place of confinement by General Orders No. 13, Headquarters Cavalry, Alexandria, Va., of August 4, 1865.

He arrived at Fort Jefferson, Fla., September 13, 1865, and was ordered to be released therefrom per Special Order No. 49, paragraph 12, War Department, Adjutant-General's Office, of February 5, 1866 reported to chief mustering officer, Illinois, and was discharged the service October 30, 1866, to date October 27, 1865

(The order releasing him was based on a report from the commanding officer of Fort Jefferson to the effect that he and others mentioned by good conduct while in confinement were worthy of executive clemency.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *March* 13, 1890.

The SECRETARY OF WAR.

In the matter of application of Robert McFarland, late corporal in Company B, Fifth Illinois Cavalry, for honorable discharge from the service of the United States.

L. D. McKee, James Horn, Henry Gransley, and J. P. Light, all of the county of Coles and State of Illinois, being duly sworn, depose and say:

That we were each and all members of Company B, Fifth Illinois Cavalry, in the war of the rebellion; that we well and personally knew Corporal McFarland of said company and regiment, who enlisted in the month of September, 1861, and who re-enlisted as a veteran some time about the spring of 1864, and who thereafter served in said company and regiment until about the month of July, 1865. We and each of us, from personal knowledge, know that said Robert McFarland was a brave soldier and prompt in the performance of his duties; that he was in all of the engagements and skirmishes in which his regiment was engaged as such; that he was never absent from his command during the said time of his service excepting when at one time on sick furlough to his home and when at home on veteran furlough.

That about the first days of July, 1865, the said regiment was ordered from Memphis, in the State of Tennessee, to the State of Texas, as we believe and as we then understood; that a battalion of said regiment in which said Company B was went on board boat at Memphis and was transported to the mouth of Red River, Louisiana, where they disembarked for a time. That there were no commissioned officers present belonging to said Company B present with said company nor in command thereof, very many of said command claiming that their term of enlistment had expired by reason of the close of the war and were very unwilling to go as ordered to the State of Texas. A number of the members left the command and returned to their homes before the battalion embarked at Memphis. Many of the members of said battalion who embarked as aforesaid were discontented and angry for the cause aforesaid. On the arrival of the battalion at the mouth of Red River and their disembarking the dissatisfaction led some of them to disobedience of orders of Captain Clark of said regiment, commanding battalion, in which said Robert McFarland took no part.

That said Captain Clark ordered said Corporal McFarland with three others as a special detail to arrest the members of said battalion referred to who had disobeyed orders; that said McFarland attempted to make the arrests as ordered, and that the offenders refused to submit to the arrest, and the great body of the men on board the boat, comprising said battalion, gathered together around the offenders and said detail and declared that the offenders should not be arrested and refused to permit the guards to do so. This occurred on the lower deck of the steamer, whereupon the said McFarland went to the cabin of the boat where Captain Clark, commanding, was and reported the facts to him, and that he was unable to make the arrests, whereupon the said Captain Clark, commanding, ordered the said McFarland and the other guards referred to under arrest, and to be placed in confinement in the hold of the boat;

that this was about the month of July, in the State of Louisiana, the heat being intense on any part of the boat, but almost unendurable to a human being in the hold thereof; that we understand that said McFarland was charged with resisting arrest; he did demur to being placed in the hold of said vessel in confinement, but made no resistance other than to protest against being placed in such a place of confinement, and he was placed there and there confined without physical resistance or violence of any kind on his part. That thereafter, in the summer of 1865, charges were preferred by the captain, as we understood and believe, against said McFarland by said Captain Clark. On such charges and specifications he was tried by court martial at Alexandria, in the State of Louisiana, in the summer of 1865, and on such charges and specifications, or some of them, was found guilty, whereupon he was sentenced to imprisonment on the island of Dry Tortugas for a term of three years, and to be dishonorably discharged from the service of the United States with loss of all pay and allowances; that about the month of August, 1865, said McFarland was sent to Dry Tortugas, where he remained in confinement for about seven months when he was released and he returned home.

We, and each of us, state the facts stated herein up to the time of said McFarland being sent to the Dry Tortugas, are stated from our own personal knowledge and observation. That we knew that he was a good and brave soldier; that we saw and were present at the occurrence of the events leading to his arrest and imprisonment, and believe that it would have been impossible for said McFarland with his detail of guards to have made the arrests ordered, at least not without causing very serious disturbance among the members of said battalion, if he had been able to secure their arrest at all. That said McFarland did not refuse to make said arrests, but that he did make report of the condition in which he found things and the difficulty he met in making said arrests to said Captain Clark as aforesaid.

We, and each of us, further state that we have not seen said Robert McFarland since he was sent from Alexandria, La., to the Dry Tortugas; that we are not related to him in any way, and that we have no interest, direct or indirect, in securing for him an honorable discharge from the service of the United States other than in securing what we believe to be right and just toward a comrade who had so faithfully and for so long a time done his duty as a soldier to his country, and who we believe to be innocent of any intended disrespect toward or disobedience of orders of a superior officer.

We, and each of us, after the lapse of twenty-five years, state that we did then, have ever since, and do now believe that said Robert McFarland was most cruelly and most unjustly wronged and hardly dealt with in being deprived of the good name and fame which he had so faithfully earned by his long service and by the forfeiture of the pay and allowances, meager as they were, which were due to him from the Government.

J. P. LIGHT.
H. GRANSLEY.
L. D. MCKEE.
JAMES P. HORN.

Subscribed and sworn to before me this 3d day of October, A. D. 1889.

JOHN S. GOVERYEAR,
County Clerk.

STATE OF ILLINOIS, *Moultrie County, ss:*

The above affidavit was subscribed and sworn to before me by the above named J. P. Light this the 12th day of October, A. D. 1889.

CHAS. SHERMAN,
County Clerk of Moultrie County, Illinois.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1521.

IN THE SENATE OF THE UNITED STATES.

JULY 17, 1890.—Ordered to be printed.

Mr. CAMERON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 1695.]

The Committee on Military Affairs, to whom was referred the bill (S. 1695) for the relief of Lorenzo Thomas, jr., having had the same under consideration, beg leave to submit the following report:

The bill proposes to authorize the President to nominate, and, by and with the advice and consent of the Senate, appoint Lorenzo Thomas, jr., late captain First Regiment of Artillery, a captain of artillery in the Army of the United States; and that he shall be assigned to the first vacancy occurring in his grade in the artillery arm of the service: *Provided*, That he shall receive no pay for the period he was out of the service.

It appears from the letter of the Adjutant-General of the United States Army, appended to this report, that Lorenzo Thomas, jr., was appointed second lieutenant in the First Artillery April 24, 1861; that he went through the different stages of promotion as first lieutenant, captain, and major by brevet, and that on February 1, 1866, he tendered his resignation, which was accepted.

Your committee have uniformly reported adversely on all bills of this character, where officers of their own volition have resigned from the Army. To report otherwise would set a very unjust precedent. For this and other reasons set forth in the Adjutant-General's report your committee report the bill back adversely and recommend its indefinite postponement.

ADJUTANT-GENERAL'S OFFICE,
Washington, January 31, 1890.

SIR: I have the honor to return herewith a bill (S. 1695, Fifty-first Congress, first session), referred to the Department by the Senate Committee on Military Affairs, "For the relief of Lorenzo Thomas, junior," which proposes to authorize his appointment as a captain of artillery and his assignment to the first vacancy occurring in his grade in the artillery arm of the service.

Lorenzo Thomas, jr., was appointed second lieutenant in the First Artillery April 24, 1861; was promoted first lieutenant May 14, 1861, and captain November 4, 1863, and he received the brevet of major March 13, 1865, for gallant and meritorious services during the war.

He joined his battery June 5, 1861, and served with it at Fort Washington, Md., to September 3, 1861; at Camp Duncan, District of Columbia, to March 10, 1862; in the field with the Army of the Potomac to August 10, 1862; was on duty with the Adjutant-General, United States Army, to March 25, 1863; with his battery in the Army of the Potomac to June 2, 1863; and on duty as aid-de-camp and acting assist-

ant adjutant-general to General Lorenzo Thomas, Adjutant-General United States Army, assisting in organizing colored troops to September 1, 1865, after which date he was on leave of absence until February 1, 1866, when his resignation was accepted.

His restoration as a captain of artillery and his assignment to the first vacancy as proposed, would prevent the promotion of the senior lieutenant in the regiment in which the first vacancy might happen.

The senior lieutenants in the five regiments of artillery have served continuously in the regular Army since August 6, 1866; September 10, 1866; December 14, 1866; June 17, 1867, and September 30, 1867, respectively, and those in the Second, Third, and Fifth regiments served in volunteer regiments from 16 months to 4 years, respectively, during the late war.

It would be a manifest injustice to these officers, and all below them, to assign any one to a captain's vacancy in the artillery arm, unless it should be some one who was wrongfully deprived of his commission as a captain of artillery, which was not the case in this instance.

Captain Thomas served less than five years, and left the service by resignation; and there was nothing in the character of his service which would warrant such exceptional action as is proposed by this bill.

Very respectfully, your obedient servant,

J. C. KELTON,
Adjutant-General.

The SECRETARY OF WAR.

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1522.

IN THE SENATE OF THE UNITED STATES.

JULY 17, 1890.—Ordered to be printed.

Mr. CAMERON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 3001.]

The Committee on Military Affairs, to whom was referred the bill (S. 3001) for the relief of James S. Jouett, having had the same under consideration, beg leave to submit the following report:

The bill proposes to pay James S. Jouett, late a lieutenant in the United States Army, the sum of $5,840, in full settlement of all claims for pay and arrearages of pay due said Jouett as an officer in the United States Army.

Lieut. James S. Jouett having been dismissed from the Army by sentence of court-martial, taking effect April 30, 1885, he was restored to his former rank in the Army by the act of Congress approved April 16, 1888, which expressly provided "That said Jouett shall receive no pay or allowances of any kind for the period between the date of his dismissal and date of his appointment under the provision of this bill."

It also appears, from the statement of Lieutenant Jouett's services furnished the committee by the War Department, that he was on duty with his regiment after his restoration from June 19, 1888, to September 28, 1888, a little over three months, after which date he was in arrest until the date his resignation was accepted January 15, 1889. At the time he tendered his resignation he was under charges of "conduct to the prejudice of good order and military discipline," and "disobedience of orders."

In view of the circumstances and facts set forth the committee feel warranted in reporting the bill back adversely, and recommend its indefinite postponement.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1523.

IN THE SENATE OF THE UNITED STATES.

JULY 17, 1890.—Ordered to be printed.

Mr. CAMERON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany petition of Lieut. H. H. Bellas.]

The Committee on Military Affairs, to whom was referred the petition of Lieut. H. H. Bellas, retired first lieutenant Fourth Regiment United States Cavalry, praying that he may be retired with the rank of captain, beg leave to submit the following report:

The bill (S. 1636) for the relief of certain officers on the retired list of the Army covers the relief prayed for by Lieutenant Bellas. That bill having been favorably reported by your committee some time ago and passed the Senate, and now pending in the House of Representatives, they ask to be discharged from its further consideration.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1524.

IN THE SENATE OF THE UNITED STATES.

JULY 17, 1890.—Ordered to be printed.

Mr. CAMERON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany petition of Lieut. George W. Kingsbury.]

The Committee on Military Affairs, to whom was referred the petition of Lieut. George W. Kingsbury, retired first lieutenant of the Twelfth United States Infantry, praying that he may be retired with the rank of captain, beg leave to submit the following report:

Senate bill 1636, for the relief of certain officers on the retired list of the Army, covers the relief prayed for by Lieutenant Kingsbury. As that bill has already been favorably reported by this committee and has also passed the Senate, and is now pending in the House of Representatives, they ask to be discharged from the further consideration of the petition.

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1525.

IN THE SENATE OF THE UNITED STATES.

JULY 18, 1890.—Ordered to be printed.

Mr. FAULKNER, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany S. 4119.]

The Committee on the District of Columbia, to whom was referred the bill (S. 4119) granting the right of way to the Metropolitan Southern Railroad Company through the property of the United States in Montgomery County, Maryland, have had the same under consideration and would respectfully report:

Your committee addressed a communication to the Secretary of War, inclosing a copy of this bill, and asked his views in reference to the subject-matter of the same.

On July 12, 1890, the Secretary of War returned the bill with the following letter and inclosures, all of which your committee ask shall be printed as a part of this report:

WAR DEPARTMENT,
Washington City, July 12, 1890.

SIR: I return herewith Senate bill 4119, granting the right of way to the Metropolitan Southern Railroad Company through the property of the United States in Montgomery, County, Maryland, referred to this Department on the 2d instant, and invite your attention to the inclosed letter of the 11th instant from the Chief of Engineers and to the copy of a report, and its accompanying tracing, on the bill, by Lieut. Col. G. H. Elliot, Corps of Engineers, whose views are concurred in by the Chief of Engineers and by this Department. A copy of the bill amended in accordance with those views is herewith submitted.

Very respectfully,

REDFIELD PROCTOR,
Secretary of War

CHAIRMAN COMMITTEE ON THE DISTRICT OF COLUMBIA,
United States Senate.

OFFICE OF THE CHIEF OF ENGINEERS, UNITED STATES ARMY,
Washington, D. C., July 11, 1890.

SIR: I have the honor to return herewith Senate bill 4119, "granting the right of way to the Metropolitan Southern Railroad Company through the property of the United States in Montgomery County, Maryland," with a report thereon by Lieut. Col. G. H. Elliot, Corps of Engineers, in whose views I concur.

Very respectfully, your obedient servant,

THOS. LINCOLN CASEY,
Brigadier-General, Chief of Engineers.

Hon. REDFIELD PROCTOR,
Secretary of War.

OFFICE OF THE WASHINGTON AQUEDUCT,
Washington, D. C., July 11, 1890.

GENERAL: I have the honor to state as follows concerning Senate bill No. 4119, Fif y first Congress, first session, granting right of way to the Metropolitan Southern Railroad Company through the property of the United States in Montgomery County, Maryland, which you sent to me for report on the 3d instant. Before its receipt, Mr. Kretzer, assistant engineer of the Baltimore and Ohio Railroad Company, came to ask for information respecting the location of the aqueduct conduit in the vicinity of the receiving reservoir and showed me a plot of the proposed route of the railway named in the bill, or rather that part of it which crosses the Government land at the reservoir. He has since kindly loaned me the plot and I have had this route added to one of our office plats of the reservoir and a drawing of the latter is herewith.

It will be seen that the railway enters the reservoir lands at A, is to skirt the edge of the water between A and B at a distance of a few feet from it and is to enter a tunnel at B, emerge from it at or near C, and is then to pass over the Government land to its southern boundary, which is near the north bank of the Potomac. Just before it enters the tunnel at B the track is to cross the 9-foot conduit from Great Falls, a few feet from the "north connection." This is an uncovered rectangular chamber about 20 feet by 10 feet, into which the water from this conduit enters and passes either into the reservoir or into the 9-foot by-conduit leading around the reservoir to the "south connection" as may be desired.

There is no question of any objection to the use of the public land south of the conduit road.

The only part of it necessary to be controlled by this office is the stream known as Little Falls Branch, in which is carried both the overflow from the reservoir and the water from one of our important waste-weirs (No. 2) which is in the conduit tunnel No. 4, at D, and I have been thinking of proposing that the United States should sell all of the reservoir land south of the conduit road, except the valleys of this branch and the routes of the overflow water and of the water from the waste-weir. This land, by reason of the rise in the price of land in the vicinity, has recently become valuable.

Between the point A, where the proposed railway route enters the Government land and its entrance to the proposed tunnel at B, the case is quite different. All of this part of the route is in the water-shed of the reservoir, and the passage of the railway through any part of it would be objectionable, for it would destroy the privacy of this part of the reservoir grounds from which the public should be excluded. It would not only leave an opening in the close fence which it is proposed to build around these grounds, through which the public could enter, but the track-men and other servants of the railway company not under Government control would be continually passing through.

But more important than this, filth from cattle trains and from the water-closets of passenger-trains and the dirt and dust from all the trains, would be deposited close to the edge of the reservoir, and by rains would be washed into it.

This objection can be avoided by changing the route of the railway so that it shall leave the valley of Powder Mill Branch near the point A, and pass through the hill to the conduit road at or near E, about 350 feet west of the westerly entrance from the conduit to the conduit tunnel No. 4, passing over the conduit road by a bridge about 20 feet above this road.

Although this change in the route would not exclude the railway from the valley of the Powder Mill Branch which is, all of it, in the water-shed of the reservoir, yet the part of the valley to be occupied by the railway would be above the dam F, G, which it is proposed to construct across the branch for the purpose of excluding its water from the reservoir and above the mouth of the proposed drainage tunnel H, I, which is to carry it to Little Falls Branch. In this connection I should remark that for the improvement of the water of the receiving reservoir, it is proposed not only to throw dams across all the streams that enter the reservoir and shoal it with detritus and pollute it, but to deepen the shoal places and protect the sides of the reservoir by slope wall of rubble stone.

I should also remark that it would be quite inadmissible that the railway tunnel should in any case cross the routes of the conduit tunnel No. 4, the tunnel of the waste-weir No. 2, the tunnel of the by-conduit or the proposed drainage tunnel.

In view of the foregoing I beg to suggest the following changes in the bill:

In the fifth and sixth lines to erase the words Washington City and to insert the word "receiving."

In the ninth line to insert after the word "grade" the words "and such additional width as it may require for slopes of cuttings and embankments."

In the eleventh line to insert after the word "location" the words "and plans."

In the twelfth line to insert after the word "War" the words "before the commencement of any work on said grounds, and the work of construction and the operating of said road, shall be subject to such regulations as he may prescribe."

At the end of the seventeenth line to add after the word "granted" the words, "which are to terminate at the pleasure of the Secretary of War, in case of persistent neglect by said company or by its successors to comply with the regulations aforesaid."

I return herewith the inclosures sent me with your letter, viz, two printed copies of Senate bill No. 4119, Fifty-first Congress, first session, and letter of clerk of Committee on the District of Columbia to the Secretary of War.

Very respectfully, your obedient servant,

GEORGE H. ELLIOT,
Lieutenant-Colonel of Engineers, U. S. Army.

The CHIEF OF ENGINEERS, U. S. ARMY,
Washington, D. C.

Your committee has amended Senate bill 4119 in accordance with the views of the Engineer Department, concurred in by the Secretary of War, and, as so amended, would report the bill favorably; and recommend that it do pass.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1526.

IN THE SENATE OF THE UNITED STATES.

JULY 19, 1890.—Ordered to be printed.

Mr. HAMPTON, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 1808.]

The Committee on Military Affairs, to whom was referred the bill (S. 1808) for the relief of William W. Webb, have considered the same, and they beg to report the bill back to the Senate amended, and in this shape they recommend its passage.

The testimonials as to the effective and brilliant services of this officer, laid before your committee by his brother officers, are of the highest character, and he now is not only in reduced circumstances, but incapacitated by almost total blindness from maintaining himself and his family by his own exertions.

In view of these facts your committee think that he should receive the relief proposed in the bill in recognition of his long and honorable service.

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1527.

IN THE SENATE OF THE UNITED STATES.

JULY 21, 1890.—Ordered to be printed.

Mr. MCMILLAN, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany S. 1579.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 1789) for the relief of the estate of Albert L. Berry, deceased, would respectfully report:

The records of the Post-Office Department show that there is on the books of that Department a balance amounting to $500.38 standing to the credit of the estate of Albert L. Berry, late mail contractor on route No. 7893 Ozark to Bentonville, in the State of Arkansas, for service to May 31, 1861, the date of the discontinuance of such service by reason of the war.

The Department has also on file the letters testamentary issued to Mary E. Berry, appointing her executrix of the estate of Albert L. Berry, late mail contractor on route No. 7893, in the State of Arkansas.

The Auditor of the Treasury for the Post Office Department, in a letter dated January 10, 1890, says of this claim:

> There is evidence on file in this office that certain mail contracts in Arkansas were paid pro rata for service from January 1 to May 6, 1861, by W. R. Miller, auditor of the State of Arkansas, out of money belonging to the United States, siezed by the State of Arkansas, some of the said contractors having already been paid by the United States.
>
> The name of Mr. Berry does not appear in the list of contractors thus paid, but there is no evidence filed by him in this office to show that he was not paid, either by the State of Arkansas or by the Confederate States.

In view of the above facts, we recommend that the bill do not pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1528.

IN THE SENATE OF THE UNITED STATES.

JULY 21, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany S. 3462.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 3462) for the relief of Bryan Tyson, have examined the same, and report:

This bill authorizes and directs the Secretary of the Treasury to pay to Bryan Tyson the sum of $1,204.86, provided that proper and sufficient evidence showing his claim to be just shall first have been submitted. On this point the committee has received the following letter from the Acting Second Assistant Postmaster-General:

POST-OFFICE DEPARTMENT,
OFFICE OF THE SECOND ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., April 19, 1890.

SIR: Referring to your communication of the 14th instant, transmitting the inclosed copy of Senate bill 3462, and requesting information relative to the same, I have the honor to inform you that service on route 5622, Georgetown to Kingstree, S. C., was awarded to Mr. Bryan Tyson, of Washington, D. C., and contract ordered with him from July 1, 1867, to June 30, 1871, at $1,225 per annum, three times a week. Mr. Tyson failing to provide for this service, the Department was compelled to employ temporary service, and finally to annul his contract, which was ordered to take effect from July 31, 1868.

The temporary service employed was at the rate of $2,500 per annum, the cost of which was charged to Mr. Tyson as failing contractor, in accordance with law.

The records of this office, and the records of the office of the Auditor of the Treasury for the Post-Office Department, have been carefully examined, and show thet payment in full has been made to Mr. Tyson, up to and including July 31, 1868, tha date on which he became failing contractor.

Very respectfully,

WM. J. POLLOCK,
Acting Second Assistant Postmaster-General.

Hon. PHILETUS SAWYER,
Chairman Committee on Post-Offices and Post-Roads, United States Senate.

In view of this negative testimony from the Post-Office Department, the bill is reported adversely with a recommendation that it be indefinitely postponed.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1529.

IN THE SENATE OF THE UNITED STATES.

JULY 21, 1890.—Ordered to be printed.

Mr. SPOONER, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany S. 2944.]

The committee recommend that the bill be passed, with amendments, and in support of the same submit the following:

TREASURY DEPARTMENT,
OFFICE OF THE SUPERVISING ARCHITECT,
Washington, D. C., April 24, 1890.

SIR: The letter from your committee, dated March 6, 1890, requested an official report upon Senate bill 2944, introduced March 3, 1890, by Hon. W. D. Washburn, to provide for the acquisition of a site and the erection thereon of a public building for the accommodation of the "United States courts, post-office, internal revenue, and other Government offices" in Fergus Falls, Minn., at a cost not to exceed $150,000.

In reply I have the honor to submit the following:

Copy of a report, dated February 12, 1890, addressed to this office by the Postmaster-General.

Copy of a report, dated March 18, 1890, addressed to this office by the postmaster of Fergus Falls.

Copy of a letter, dated March 20, 1890, addressed to this office by the honorable the Attorney-General, inclosing copy of letter, dated March 13, 1890, addressed to him by the United States marshal for the district of Minnesota.

Copy of a statement, dated May 10, 1890, addressed to this office by the Acting Commissioner of Revenue.

By reference to page 1017, "Report of the Postmaster-General, 1889," it will be observed that the gross postal receipts of said city for the fiscal year ending June 30, 1889, were $7,318.97; the salary, clerk hire, rent, light, and fuel, and other incidental expenses aggregated $2,477.52; the net postal receipts were $4,841.45, and that, in addition to said post-office being self-sustaining, it yielded a net postal revenue of 66 per cent.

From computations made in this office, based upon the statements contained in the papers above cited in regard to the requirements of building, it is found that a suitable site can be procured, and a public building two and one-half stories high, with basement, the first story for post-office, the second story for courts, about 50 feet by 90 feet in dimensions, giving about 4,500 square feet of first-floor area, of fire-proof construction, including heating apparatus, vaults, and approaches, and excluding elevator service, can be erected thereon for $100,000, or $50,000 less than the limit of cost proposed by said bill.

Respectfully, yours,

JAS. H. WINDRIM,
Supervising Architect.

Hon. LELAND STANFORD,
Chairman Committee on Public Buildings and Grounds, United States Senate.

DEPARTMENT OF JUSTICE,
Washington, March 20, 1890.

SIR: Herewith inclosed is a copy of a letter of the 13th instant from W. M. Campbell, United States marshal for the district of Minnesota, relative to the needs of the United States courts in connection with the proposed public building at Fergus Falls, Minnesota.

Very respectfully,

W. H. H. MILLER,
Attorney-General.

The SUPERVISING ARCHITECT OF THE TREASURY.

UNITED STATES MARSHAL'S OFFICE, DISTRICT OF MINNESOTA,
St. Paul, March 13, 1890.

DEAR SIR: Your favor of the 11th instant, regarding the public building at Fergus Falls, received.

At present there is no term of court held at Fergus Falls, and consequently no persons are employed.

The same accommodations that will be afforded in the new building at Winona, and has already been provided for, will be ample.

No rental is paid, as no court is held at Fergus Falls.

Yours, respectfully,

W. M. CAMPBELL,
United States Marshal,
By W. DAGGETT,
Deputy.

Hon. W. H. H. MILLER,
Attorney-General, Washington, D. C.

FERGUS FALLS, MINN., *March 18, 1890.*

SIR: Below please find answers to yours of the 6th inst.

Amount of postal business done in 1878, $1,598,21; in 1889, $8,174.35; number of square feet of floor now occupied by post-office, 1,250, which is sufficient for present postal business; amount of rental now paid for post-office per annum, $300; probable cost of land suitable for site for a public building, from $5,000 to $6,000; population of city in 1878, about 800; in 1889, about 5,000; will have in ten years, probably, 10,000.

Respectfully,

HORACE PICKET,
Postmaster Fergus Falls, Otter Tail County, Minn.

H. C. MCLEAN, Esq.,
Acting Supervising Architect, Washington, D. C.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1531.

IN THE SENATE OF THE UNITED STATES.

JULY 22, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 4233.]

The Committee on Pensions, to whom was referred the bill granting a pension to Jessie Fremont, have examined the same, and report that the passage of the bill is recommended.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1532.

IN THE SENATE OF THE UNITED STATES.

JULY 22, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 3711.]

The Committee on Pensions, to whom was referred the bill granting a pension to Ellen M. McClellan, have examined the same, and report that the passage of the bill is recommended.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1533.

IN THE SENATE OF THE UNITED STATES.

JULY 22, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8532.]

The Committee on Pensions, to whom was referred the bill granting a pension to Mary Webster, have examined the same, and report:

The report of the Committee on Invalid Pensions of the House, hereto appended, is adopted, and the passage of the bill is recommended.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8532) granting a pension to Mary Webster, submit the following report:

The following record is taken from an order and letter book, the record of the Superintendent and Medical Director's Office, U. S. Army General Hospitals, Louisville, Ky.:

[Special Order No. 157.]

MARCH 1, 1865.

Miss Mary Webster, hospital nurse, having reported to this office, in obedience to order from the Assistant Surgeon-General, U. S. Army, is hereby assigned to duty in Crittenden U. S. Army Hospital, and will report without delay to Surgeon R. R. Taylor, U. S. Volunteers, in charge.

R. H. GILBERT,
Surgeon, U. S. Volunteers, Supt. and Medical Director, Government Hospital.

This claimant was expelled and transported through Confederate lines, and entered a hospital in New Orleans, by B. F. Bache, medical director there, where she contracted gastritis, and finally furloughed, until after the battles around Chattanooga, when she reported to Surgeon-General Wood at Louisville, Ky., and was assigned to duty at Hospital No. 7, Chattanooga, Tenn.; and also Crittenden Hospital, Louisville, Ky.; Natchez, Miss.; McPherson Hospital, Vicksburg, until the close of the war, when she was finally discharged.

It appears her vouchers were lost through the carelessness of a surgeon, and she has never been paid her salary or subsistence. She is now broken down in health, which originated while in service, destitute circumstances, and dependent on her friends as an object of charity, and your committee recommend the passage of the bill.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1534.

IN THE SENATE OF THE UNITED STATES.

JULY 22, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill 4198.]

The Committee on Pensions, to whom was referred the bill (S. 4198) granting a pension to John E. Doggett, son of George R. Doggett, late a private in Company L, Eighth Regiment Indiana Cavalry, have examined the same, and report:

The claimant is the son of the soldier above named, who was killed in battle at Pulaski, Tenn., on September 7, 1864. The widow drew a pension during her life-time on account of the death of the soldier, but she is now dead, and there is no pension paid to any one on account of the service of the soldier except to the claimant, who was pensioned by a special act of Congress passed July 26, 1886, at the rate of $12 per month, which pension he is now receiving. Being pensioned by a special act he could not apply to the Pension Bureau for an increase, but only to Congress, and his application for increase is founded upon the following facts shown by the testimony of physicians who are personally acquainted with and have examined him, and of neighbors and acquaintances as to his physical condition in June, 1890.

He is described as being of the age of thirty years, 4 feet 2½ inches high, weight 73 pounds. He is a dwarf or hunchback. The spine is greatly distorted. He has catarrh of the throat and head, and chronic bronchitis of the lungs; muscular system much wasted, not well nourished, and of an unhealthy appearance. He is very generally under medical treatment of some kind. He is unmarried, sober, honest, well respected by all who know him, but wholly unfit for manual labor of any kind. He is without means or property, except a little news-stand with which he tries to eke out the means of a living, but with rather indifferent success, owing to his inability on account of his feeble condition regularly to attend the stand and bear the exposures of the weather.

Under this state of facts we do not think the present pension of $12 per month sufficient for the support of one in a condition so infirm and disabled. We therefore recommend the passage of the bill giving him $20 per month instead of $12 per month, in lieu of the pension he is now receiving.

O

51st Congress, 1st Session. | SENATE. | Report No. 1535.

IN THE SENATE OF THE UNITED STATES.

July 22, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 4254.]

The Committee on Pensions, to whom was referred the petition praying the granting of a pension to Mrs. Eliza Wallace, widow of Thomas Wallace, deceased, late a private in Company H, Sixteenth Indiana Volunteer Infantry, have examined the same and report:

That the claimant has heretofore been a pensioner of the United States. She drew a pension on certificate No. 27300 as the widow of the soldier above named from the 4th day of December, 1862, at which time her husband died in Memphis, Tenn., while in the military service of the Government, from disabilities incurred therein. On the 8th day of March, 1881, she was married a second time to one Harrison Cummins, when her name was dropped from the roll on account of this second marriage. After a few months the second husband, failing to provide for her support, left her and a divorce took place between the parties on the 25th day of November, 1885, the claimant being restored by the decree to the use of her former name, Eliza Wallace, by which she is now known.

She is now sixty-nine years of age. She has reared by her own exertions a family of five children left by her first husband, Thomas Wallace, the soldier. She has no property except her personal apparel and some articles of furniture. Her health is so feeble that she is wholly unable to earn a living by manual labor. She depends for support upon her children, who are none of them wealthy or in affluent circumstances.

Under this state of facts, as shown by the evidence in the case, as well as upon account of the precedents made in like cases, we think the petitioner is entitled to the relief prayed for, and we therefore report the accompanying bill to place her name on the pension-roll, subject to the conditions and limitations of the pension laws.

O

51st Congress, 1st Session. | SENATE. | Report No. 1536.

IN THE SENATE OF THE UNITED STATES.

JULY 23, 1890.—Ordered to be printed.

Mr. TELLER, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany S. 4258.]

The Committee on Public Lands, to whom was referred the message of the President of the United States of May 19, 1890, and the accompanying papers, having had the same under consideration, respectfully report as follows:

It appears that the Cuartel lot in the city of Monterey, Cal., mentioned by the President in his message, contains about one and one-fourth acres, and appears to be of no great value; your committee refer to Executive Document 124, Fifty-first Congress, first session, as giving the present status of the lot. It appears by such document that the city of Monterey claims to have the title to the lot as a part of the Pueblo lands of that city. Your committee does not consider the property of sufficient value to justify a controversy between the United States and the city of Monterey, and therefore recommend that the United States release to said city of Monterey the title to said lot, and accordingly report a bill for that purpose.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1537.

IN THE SENATE OF THE UNITED STATES.

JULY 23, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 3816.]

The Committee on Pensions, to whom was referred the bill granting a pension to Margaret D. Marchand, have examined the same and report:

The report in this case, made by your committee in a former Congress, is adopted and the passage of the bill recommended.

This committee beg to state that they have examined the facts in the case recited in the affidavits of Mrs. Marchand and of the witness, Alice P. Thornton, which are hereto appended and made part of this report:

"On this 15th day of May, 1884, before me, Sprigg Harwood, clerk circuit court for Anne Arundel County, personally appeared Margaret D. Marchand, who, being duly sworn according to law, deposes and says as follows, to wit:

"In the year 1861 my husband, the late Commodore John B. Marchand, then commander, was in command of the steamer *James Adger*, off Charleston, S. C., engaged in the naval service of the United States Government in the late civil war. At that date he was in robust health and perfect physical condition. He had always been a man of unusually robust constitution, weighing over 200 pounds, and of perfectly regular habits, and from the day of our marriage, to wit, the 11th day of November, 1856, until the date of his taking command of the steamer *James Adger*, in 1861, have never known him to have any sickness with the exception of some trivial derangement of perhaps a day's duration, and never requiring any medical attendance. His habits throughout his entire life were uniformly regular and temperate.

"To the best of my knowledge he went upon blockade duty in the year 1861, in his usual health, and came to our home in Baltimore in 1864, broken down in health and much reduced in flesh, after protracted blockade duty, and after the severe engagements while in command of the U. S. S. *Lackawanna* in Mobile Bay. At the date of his promotion to the rank of commodore, in the year 1866, for distinguished services, the usual physical examination was waived. Soon after this date symptoms of defective circulation commenced, manifesting itself in the ends of his fingers, they becoming bloodless and livid in color. In 1871 he was a frequent sufferer from violent pains in his chest. In the winter of 1873 and 1874 Commodore Marchand was confined to the house, suffering extremely from the swelling of his feet. In the winter of 1874 and 1875 he had hemorrhages of the lungs; the last of these hemorrhages was the immediate cause of his death. Dr. Mahan, of Pennsylvania, our family physician, who attended Commodore Marchand during the early periods of his sickness, is now deceased. Drs. Dale and Zeigler, who attended him at his death, pronounced his complaint from which death resulted to be heart disease.

"My belief is further strengthened by the information of Dr. Ridoute, of Annapolis, Md., that the defective circulation, pains in the chest, and swollen limbs were all symptoms of the heart disease which resulted in Commodore Marchand's death; and that all these symptoms and the disease which resulted in the commodore's death were produced by exposure consequent upon the continuous and excessive duties that he was called upon to perform while in the service of the U. S. Navy as above stated.

"MARGARET D. MARCHAND.

"Sworn to and subscribed the day and year first above written, before me.

[SEAL.] "SPRIGG HARWOOD,

"*Clerk Circuit Court for Anne Arundel County.*"

"On this 15th day of May, before me, Sprigg Harwood, clerk of circuit court for Anne Arundel County, personally appeared Alice P. Thornton, who, being duly sworn according to law, deposes and says:

"That she is a sister of the within-named Margaret D. Marchand, and that she has read and carefully examined the affidavit of her said sister hereto appended; that she has personal knowledge of the condition of health and different stages of disease that finally resulted in the death of Commodore Marchand; and also personal knowledge of the statements contained in the annexed affidavit, and that she verily believes the same to be true.

"ALICE P. THORNTON.

"Sworn and subscribed this 15th day of May, 1884, before me.
[SEAL.] "SPRIGG HARWOOD,
"*Clerk Circuit Court for Anne Arundel County.*"

The committee also desire to attach and make a part of their report the following account of the service of Commodore Marchand in Mobile Bay:

"The morning of the 5th of August, 1864, found Admiral Farragut, with his fleet, consisting of the *Richmond*, *Port Royal*, *Lackawanna*, *Seminole*, *Monongahela*, *Kennebec*, *Ossipee*, *Itasca*, *Oneida*, *Galena*, *Brooklyn*, *Octorara*, *Metacomet*, and lastly the *Hartford*, the admiral's flag-ship, at the mouth of Mobile Bay. Among the efficient officers who contributed to this important victory was Capt. John B. Marchand,* of the *Lackawanna*. At fifteen minutes of 6 o'clock the whole fleet was under way, and just one hour afterwards the first gun was fired. The ships above mentioned entered the bay, lashed to each other in pairs side by side, in order to prevent any confusion in passing the formidable fortifications of the Confederates guarding the entrance to the bay. The *Brooklyn* and *Octorara* were in the lead. The *Lackawanna*, with the *Seminole*, was in the center of the line of battle. Fort Morgan first opened fire upon the fleet, and the rebel boats *Tennessee*, *Morgan*, *Gaines*, and *Selma*, inside of the bay, raked the vessels with shot and shell.

"Just around the point of land behind Fort Morgan could be seen three saucy-looking gunboats and the famous ram *Tennessee*. The latter was then considered the strongest and most powerful iron-clad ever put afloat—looking like a great turtle, with sloping sides, covered with iron plates 6 inches in thickness, thoroughly riveted together, and having a formidable iron beak projecting into the water. Her armament consisted of six heavy guns of English make, sending a solid shot weighing 110 pounds irresistibly against everything but the turrets of the monitors.

"In addition to these means of resistance, the narrow channel in front of the fort had been lined with torpedoes. These were in the water, anchored to the bottom, and were chiefly in the shape of beer kegs, filled with powder, from the sides of which projected numerous little tubes containing fulminate, which it was expected would be exploded by contact with passing vessels.

"Although shot and shell were flying around, none struck the *Lackawanna's* hull, doing serious injury, until she was within 400 or 500 yards of Fort Morgan, when a heavy elongated shot from the fort passed through the ship's side, killing and wounding sixteen men at the 150-pound rifle, when it carried away two stanchions of the taffrail, passed through the foremast, and carried away the head of the sheet-cable bits, then, passing through the other side of the ship, fell into the water. Blood and mangled human remains for a time impeded the working of the 150-pounder. The firing of shells from the Union fleet was so continuous that the Confederates were driven away from their guns.

"At 8.30 o'clock in the morning the Union fleet had passed beyond the range of the guns of Fort Morgan, when the ram *Tennessee* was seen approaching. The admiral made signal to the *Monongahela*, commanded by Captain Strong, as being nearest, to run her down. The vessel was armed with a heavy artificial iron prow, and was, among the wooden vessels, the best adapted to the purpose of executing the admiral's order. At the same time the signal was sent up to the *Lackawanna* to also attack the *Tennessee*. The *Monongahela* first struck the rebel craft angularly, glancing off and doing her no perceptible injury. The *Lackawanna* was more fortunate, and struck her at right angles to her keel. The concussion was tremendous, both vessels rebounding, but soon after drifted against each other, broadside to broadside, head and stern. At this juncture Captain Marchand ordered the guns to be fired into the enemy, the vessels then being so close as to almost enable the men to touch each other. The effect of this broadside was to force the enemy to abandon their guns, thereby so disabling them as to prevent their using the guns on that side during the remainder of the engagement. The men on either ship fought hand to hand. A determined attempt was here made by the crew of Captain Marchand, under his orders, to board the enemy's ship, but was found to be impossible on account

* Since promoted to commodore.

of the heavy coatings of tallow with which the enemy's iron decks were covered. Many of his men slipped off and fell into the water. In the attempt to run down the *Tennessee* the stem of the *Lackawanna* was cut and crushed far back of the planks ends, doing her great injury, and leaving her in places but a few inches above the water. From the disabled condition of the *Lackawanna* in coping with this much superior antagonist, the two vessels became separated, the ram going ahead, and the *Lackawanna* having nothing to hold on by, her captain ordered the helm hard over to bring the ship around, in order to make another attempt at running down the ram, but the great length of his vessel and the shoalness of the water, which was not more than a foot under the keel, prevented his turning rapidly, and in going round he collided with the *Hartford*, the admiral's flag-ship, although every effort was made on his part to prevent the collision by backing the engine. Of this it has been aptly said by a personal friend of Admiral Farragut, the historian of this engagement, and who expressed the sentiment of the admiral, long after the occurrence, that 'the fault was as much with the *Hartford* as with the *Lackawanna*, each being too eager to reach the enemy.'—(J. C. Kinney, in Scribner's Monthly Magazine, June, 1881.)

"After the *Lackawanna* had cleared the *Hartford* she again started to run down the *Tennessee*, but before reaching her the rebel flag had been hauled down, a white one hoisted, and the ram had surrendered to the Union fleet, which by that time encompassed her on all sides, rendering her escape impossible."

The committee beg leave, therefore, to report the bill favorably.

NAVY DEPARTMENT,
Washington, August 10, 1883.

SIR: In reply to your letter of the 21st ultimo, you are informed that John P. Marchand was appointed a midshipman in the Navy May 1, 1828; October 27, 1828, ordered to the navy-yard, Philadelphia; August 22, 1829, detached and ordered to the *Peacock;* November 26, 1830, detached and ordered to the *Shark;* August 8, 1831, detached and ordered to the *Porpoise;* August 28, 1832, detached and placed on waiting orders; October 4, 1832, ordered to the *Experiment;* December 18, 1832, detached and placed on waiting orders; April 29, 1833, ordered to the navy-yard, Norfolk; November 11, 1833, detached and placed on waiting orders; June 14, 1834, promoted to passed midshipman; August 6, 1834, ordered to the *Potomac;* December 16, 1834, detached and ordered to the *Shark;* May 7, 1835, detached to the *John Adams;* May 26, 1837, detached and placed on waiting orders; June 12, 1837, ordered to the *Porpoise;* May 22, 1838, detached and placed on waiting orders; October 25, 1838, ordered to the *Woodbury;* January 4, 1839, detached and wait orders; April 18, 1839, ordered to the *Levant;* September 6, 1839, detached and ordered to the *Ontario;* January 29, 1840, promoted to lieutenant; April 26, 1840, detached and ordered to the *Warren;* July 10, 1840, detached and ordered to the *Erie;* October 1, 1840, detached and wait orders; August 11, 1841, ordered to the *Van Buren;* February 11, 1843, detached and ordered to the *Brandywine;* September 19, 1845, detached and granted leave; November 13, 1845, ordered to the navy-yard, Philadelphia; November 13, 1846, detached and ordered to the *Ohio;* June 17, 1850, detached from the *Saint Mary's* and granted leave of absence; August 17, 1850, ordered to the naval rendezvous at Philadelphia; March 15, 1852, detached and ordered to the *Cumberland;* July 2, 1855, detached and granted three months' leave; September 14, 1855, promoted to commander; October 25, 1855, ordered to the Bureau of Construction, etc.; September 23, 1858, detached and ordered to command the *Memphis;* May 23, 1859, detached and granted leave; January 10, 1861, ordered as light-house inspector of the eleventh district; August 31, 1861, detached and ordered to command the *James Adgar;* July 16, 1862, promoted to captain; August 14, 1862, detached and wait orders; October 24, 1862, ordered to command the *Lackawanna;* November 26, 1864, detached and wait orders; December 30, 1864, ordered to special duty with Rear-Admiral Gregory; July 11, 1865, detached and ordered to the navy-yard, Philadelphia; July 25, 1866, promoted to commodore; August 31, 1866, detached and wait orders; November 27, 1866, ordered as member of the Board of Examiners; May 9, 1868, detached and ordered to ordnance duty at the navy-yard, Philadelphia; August 1, 1868, detached and ordered to command the navy-yard, Philadelphia; August 27, 1870, placed on the retired list; September 13, 1870, detached and wait orders.

He died at Carlisle, Pa., on the 13th of April, 1875.

(Claim No. 3555. Navy widow.—L. C. W.)

By direction of the Secretary.

Very respectfully,

JNO. W. HOGG,
Chief Clerk.

Hon. WM. W. DUDLEY,
Commissioner of Pensions, Washington, D. C.

It appears that Commodore Marchand entered the Navy in 1828 and was placed upon the retired list in 1870, thus *serving his country forty-two years.*

His widow, the claimant, makes affidavit, as set forth in the foregoing report, as also does Alice P. Thornton, which satisfies the committee (in connection with such service of forty-two years) that the disease was incurred, or the causes which led to it, during the long period of service of this officer.

It has been the custom of Congress for some time to grant $50 per month to the widows of brigadier-generals in the Army and of commodores in the Navy, and also to the widows of officers of higher rank. This is, therefore, not an exceptional case.

These pensions to widows of naval officers are paid from what is known as the naval fund, which accrues from contributions of the officers and men of the Navy; and naval officers have always looked forward to having their families receive a portion of this fund to which they have contributed, and which they look upon as sacred to that purpose.

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1538.

IN THE SENATE OF THE UNITED STATES.

JULY 24, 1890.—Ordered to be printed.

Mr. BLODGETT, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3606.]

The Committee on Pensions, to whom was referred the bill granting a pension to Irena W. Gibson, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives hereto appended is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 3606) granting a pension of $20 a month to Irena Wilkinson Gibson, have considered the matter and report as follows:

Irena Wilkinson Gibson, who is 82 years old, is the daughter of David Wilkinson, who was a gunner in Crane's Continental Artillery. Wilkinson served faithfully during the war of the Revolution, as shown by the record, for three years and twelve days. Mrs. Gibson, his only surviving child, up to within a short time was able to support herself and her husband, who has been an invalid for many years. Two years ago she sustained a severe fall, and since then has not been able to do anything to support herself, and has been obliged to depend on the help of friends. It appears by the records of the Pension Office that there are borne upon the pension-rolls but two persons who, as children of Revolutionary soldiers, receive pensions; and, in view of her father's record in the Revolutionary war, and her needy circumstances, the committee recommend that the bill do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1539.

IN THE SENATE OF THE UNITED STATES.

July 24, 1890.—Ordered to be printed.

Mr. Pasco, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 3044.]

The Committee on Claims, to whom was referred the bill (S. 3044) "to authorize the Secretary of the Treasury to pay the balance found to be due the State of Florida, according to the account stated between the General Government and such State by the said Secretary, under the authority of the act" approved March 2, 1889, known as "the deficiency appropriation act," having carefully examined the same, submit the following report thereon:

The unsettled accounts between the State of Florida and the United States have been before Congress for adjustment and settlement for many years. This committee had the subject under consideration during the Fiftieth Congress upon a bill (S. 746) to settle and pay the balance claimed by the State, and afterwards upon an amendment offered to the deficiency appropriation bill of March 2, 1889, having the same purpose in view as the bill. The favorable recommendation of the committee upon this amendment was followed by its adoption by the Senate, and in a modified form it became a part of the act, as approved, and so appears in 25 U. S. S. L., p. 939. The particulars of its adoption will be stated more at length in the statement of the case.

The Secretary of the Treasury made a report in accordance with this act on the 16th day of December last, and the same appears in Executive Document No. 68 of the House of Representatives of the present session. The present bill was introduced to carry out the results of this report, and provide for the payment of the balance found to be due the State of Florida.

In presenting a history of this claim, the committee will make free use of the report made upon the bill (S. 746) already referred to in the last Congress, which report is numbered 2482, and also of other reports of earlier date upon the same subject.

The account originated in a claim set up by the State of Florida for money expended in military operations for the defense of her people during the Seminole war in the years 1856 and 1857.

There were reasons which will appear further on why the General Government could not re-imburse the State for these expenditures without the action of the Congress.

During the first session of the Thirty-fifth Congress, upon the motion of Hon. George S. Hawkins, who then represented the State in the House of Representatives, all the papers on file in the War Department, relating to the manner in which the troops employed by the State in these operations were called into service, were sent to the House of

Representatives, and January 11, 1859, were referred to the Committee of Ways and Means and ordered to be printed. They appear in Executive Document of the House of Representatives No. 38 of that Congress. No further action seems to have been then taken.

During the first session of the Thirty-sixth Congress Hon. David L. Yulee, then a Senator from Florida, introduced a bill on the 31st of March, 1860, for the purpose of effecting a settlement of the claim. It was referred to the Committee on Military Affairs of the Senate, but no report was made upon it.

The war followed, and the Congressional Record shows no further action until the second session of the Forty-sixth Congress. Joint resolutions were then introduced into both Houses directing the Secretary of War to investigate the matter and report the results. The House resolution was referred to the Committee on Claims and the Senate resolution to the Committee on Military Affairs. Reports followed in both Houses. The Senate report was offered by the present junior Senator from Kansas (Mr. Plumb). It briefly states the facts upon which the claim rests, and upon this statement both Houses pronounced their judgment and passed the joint resolution in the shape which the committee recommended. The Senate report reads as follows, and the House report is in harmony with it. The joint resolution as it passed follows the report:

[Senate report No. 378, Forty-sixth Congress, second session.]

Mr. Plumb, from the Committee on Military Affairs, submitted the following report (to accompany S. Res. 79):

The Committee on Military Affairs, to whom was referred the joint resolution (S. Res. 79) directing the Secretary of the Treasury to adjust and settle the accounts between the United States and the State of Florida, have had the same under consideration and submit the following report:

The claims of the State of Florida, for which this resolution seeks to make provision, grew out of the Seminole war of 1855, '56, and '57. It appears that in December, 1855, the Indians of that tribe in Florida, who had for some time been in a turbulent and threatening state, commenced actual hostilities by attacking a detachment of United States troops commanded by Lieutenant Hartsuff. This outbreak occasioned great excitement along the extended exposed frontier, and urgent demands were made upon the State authorities by the people for their protection. So urgent seemed the necessity that the citizens of several of the counties hastened to effect voluntary organizations in advance of the action of the State executive. These companies were promptly recognized by the governor and rendered efficient service. In the emergency the governor appealed to the War Department to accept the services of the troops thus raised and organized, but the Secretary consented to receive only five companies.

These forces, with the United States troops then on duty in that section, were inadequate to the protection of the people, and the governor felt constrained to retain in the service, besides those received by the General Government, several companies, aggregating about four hundred men. These were added to from time to time as the exigency seemed to require. These forces were regularly organized and mustered into the service of the State for a period of six months unless sooner discharged. They co-operated with the United States troops and rendered efficient service.

All the facts in the case and the voluminous correspondence submitted—correspondence between the State executive and officers of State troops and citizens living in the exposed localities, and between the executive and the military authorities at Washington and the officers of the United States Army in service in Florida—satisfy the committee that the necessity which prompted the action of the governor in organizing and maintaining State troops in the field was imperative. He could not well have done less than he appears to have done without culpable neglect of duty.

This service, of course, was a serious burden to the State financially. The troops in the field had to be equipped, supplied, and paid. The funds at the command of the executive were insufficient for the purpose, and he was forced to negotiate burdensome loans in anticipation of the action of the legislature. This is a mere outline of the facts upon which the committee base their recommendation, as they do not deem it necessary to their present purpose to treat the subject in minute detail.

On the 8th of May, 1857, the governor of Florida addressed a communication to the

Secretary of War, setting forth at considerable length his action in calling for troops, the service in which they were employed for the protection of the citizens, and the faithful manner in which they acquitted themselves. He called special attention to the fact that these forces had acted in effective co-operation with the United States troops; and to emphasize the necessity of the course he pursued, he alluded to the circumstance that when Brigadier-General Harney was subsequently ordered to the command in Florida he felt it necessary, in addition to a greatly increased regular force, to make requisition for ten mounted and five foot companies of volunteers, "being," as the governor remarks, "a much larger volunteer force than had at any previous time since this last outbreak occurred been employed by the Federal and State authorities combined, thus fully indorsing and vindicating the action of the State in this matter." The governor concluded his letter by asking the Secretary of War, in behalf of the United States, to "approve and adopt the service."

Upon this letter of Governor Broome's are indorsements of the Paymaster-General and Adjutant-General, reciting that according to the precedents it was only necessary for the President to recognize the troops as having been in the service of the United States and direct that they be mustered in and out of service, when they could be paid upon an appropriation therefor being made by Congress. The Adjutant-General recommended that "an officer be sent as soon as possible to muster them in and out of the service of the United States," which recommendation was approved by the Secretary of War, who notified the governor as follows:

WAR DEPARTMENT,
Washington, D. C., May 21, 1857.

His Excellency JAMES E. BROOME,
Governor of Florida, Washington:

SIR: I have the honor to acknowledge the receipt of your letter of the 8th instant, asking an approval of the services of certain volunteers called out by you, and in reply to inform you that the explanation as to the necessity of their services is satisfactory, and orders have been issued to the officer commanding in Florida to muster them in and out of the service of the United States.

Very respectfully, your obedient servant,

JOHN B. FLOYD,
Secretary of War.

The official order mentioned in the foregoing letter is as follows:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., May 21, 1857.

SIR: I have the honor herewith to transmit a copy of a letter addressed by the governor of Florida, under date of May 8, 1857, to the Secretary of War, respecting volunteers called out by the former to suppress Indian hostilities in Florida, but never regularly mustered into the service of the United States.

The services of these volunteers having been recognized and approved by the President, the Secretary of War directs that you cause one of the officers of your command to muster into and out of the service of the United States, as soon as practicable, the troops indicated by Governor Broome, to the end that they may be paid whenever Congress shall make the necessary appropriation for the purpose. A supply of blank muster-rolls will at once be sent to your address.

I am, sir, very respectfully, your obedient servant,

S. COOPER,
Adjutant-General.

COMMANDING OFFICER,
Department of Florida, Tampa, Fla.

On the 7th of July following the governor wrote to the Secretary of War, stating that it had been found to be impracticable to muster in those troops, as directed by the Secretary, they having long since been disbanded, and it being impossible again to assemble them at any one point. The governor suggested that the muster be made from the properly certified rolls of the State. To this the Secretary replied that no officer could make a constructive muster, as suggested, but that to certify the rolls he must have mustered the troops present. The Secretary adds:

Under the circumstances the only course left for the Department is to receive as official the State rolls, duly certified by the State authorities, and to base upon them a recommendation to Congress for the appropriation necessary to pay off the troops. This course will obviate the difficulties mentioned by you on account of the disbandment of the volunteers in question.

The committee are of the opinion that the facts set forth as to the urgent necessity for the services of these troops for the defense of the State and the protection of the people against the hostilities of the Indians create an equitable obligation on the

part of the General Government to re-imburse the cost of such necessary service. This obligation is so clearly enforced by a long series of precedents that the action of the President and the Secretary of War in this particular case only strengthens it by evidencing the opinion they entertained at the time, with a full knowledge of all the facts and circumstances, of the judicious and necessary action of the governor in summoning the troops to the field. In a report recently submitted to the Senate by this committee, and also submitted in the last Congress, relative to military expenditures by the State of Kansas, the question of the obligation on the part of the United States to re-imburse the States for expenditures of this character is fully presented in the light of numerous cited precedents. The committee would not deem it necessary to traverse this field again, even if the liability of the Government were less generally conceded than it is. We hold, therefore, that the State of Florida has a proper and legitimate claim against the United States for expenses properly incurred by her in the manner indicated.

While the committee are satisfied of the justice of this claim of the State of Florida, they are not prepared to recommend the passage of the specific bill referred to them. They think it would be wiser to authorize and direct the Secretary of War to cause this claim to be thoroughly investigated, and to report the result to Congress for further consideration. It is probable that the data on file in the War Department will greatly facilitate the proposed investigation, so that no great delay is likely to result if the recommendation of the committee shall be adopted by the Senate, and be followed by a law to the same effect. A similar course has been pursued in the case of the State of Kansas, to which reference has been made, and we therefore submit a substitute for the joint resolution, and recommend its passage.

The substitute for the joint resolution became a law March 3, 1881. It is found in 21 Statutes, page 520, and its provisions are as follows:

"That the Secretary of War be, and he is hereby, authorized and directed to investigate, ascertain, and report to Congress, as soon as practicable, the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860. In making such investigation the said Secretary is directed to receive and consider such testimony as he may deem necessary or proper for or against claims, including the muster-rolls of the State troops, and such other official data as may be on file in the War Department.

"In submitting his report to Congress the said Secretary shall not include any payments or allowances made by the State in excess of the amounts allowed by law at the time in behalf of troops regularly in the service of the United States."

The following extract from the Senate report of the last Congress continues the history of the claim:

The Secretary of War, Hon. Robert T. Lincoln, entered upon the examination of the claim in a very thorough manner, distributing the different abstracts of expenditures submitted by the State among the different departments under his control having charge of the matters included in them. The vouchers were carefully examined and acted upon, and the work of each sub-department was afterwards reviewed by the head of the War Department. The result appears in the report made to the Congress by the Secretary, May 22, 1882, and the same was printed as House Executive Document No. 203, Forty-seventh Congress, first session.

The following statement shows the amounts claimed and the amounts allowed. Many of the items were rejected for insufficient vouchers, and it is quite probable that this loss to the State is caused by the destruction and misplacement of papers, which might have occurred without the fault of the officers in charge of them during the period of over thirty years since the payment of the amounts, in which time the State passed through a period of war.

The following extract from a letter of the governor of Florida, dated April 12, 1882, addressed to the Secretary of War, in reply to a request for further evidence as to some of the items claimed by the State, accounts for the loss of missing vouchers and papers:

"I am informed by the agent of the State that the vouchers in most part sustaining the account of J. W. Pearson (marked A) have been filed in your Department, and it is much to be regretted that all of these vouchers, as well as the vouchers upon which the payments by the Treasury (statement B) were made, can not be furnished. In probable explanation of this it may not be improper for me to say that after the late civil war the archives and official records of the State were removed from their original places of deposit and stored in an unused and damp vault, where many of them were much mutilated and defaced and some entirely lost.

* * * * * * *

"W. D. BLOXHAM,
"*Governor of Florida.*"

The statement is as follows:

Nature of claim.	Claimed.	Allowed.
A, for pay of troops	$180,037.28	$154,623.66
B, for subsistence	23,474.90	7,890.92
C, for forage	42,279.52	34,669.74
D, for transportation	19,843.28	17,247.39
E, for camp and garrison equipage	193.81	98.59
F, for quartermaster's stores	589.67	395.16
G, for ordnance stores	808.43	187.90
H, for contingencies	10,332.84	9,015.81
I, for stationery	111.11	10.10
K	1,362.83	501.32
Claim of J. M. Cooper	.....	7.50
	279,033.67	224,648.09

The report of the Secretary of War came before the Forty-seventh Congress, and in the Senate was referred to the Committee on Military Affairs with a bill (S. 2098) to carry out the conclusions reached by the Secretary. This committee made a report at the second session (No. 995), through the present Senator from South Carolina (Mr. Hampton), and it was ordered to be printed February 16, 1883.

The report accepts the result reached by the Secretary of War, that there is due the State from the General Government on account of these Indian war expenditures the sum of $224,648.09.

The committee accepts it as established "that the funds at the command of the executive of the State of Florida in the years referred to were insufficient to equip, supply, and pay the troops in the field, and, relying upon the approval given by the President of the United States and the Secretary of War on the 21st day of May, 1857, of the service of these volunteers, the State legislature, in order to provide their equipment and maintenance, authorized the issue of 7 per cent. bonds."

The statutes of the State authorizing the issue of these bonds are before the committee; the first was approved December 27, 1856, but it did not give the governor sufficient authority to accomplish fully the desired purpose, and an amendatory act was passed by the legislature, and approved January 7, 1859, which increased the power of the governor, and he was then able to dispose of the bonds.

The message of the governor setting forth these matters and the report of the disbursing agent of the State of his acts in the premises are here inserted as evidence of this loan.

Message from the governor on the subject of payment of volunteers, State loan, etc.

EXECUTIVE DEPARTMENT,
Tallahassee, December 9, 1859.

Gentlemen of the senate and house of representatives:

I submit herewith the official report of Col. John W. Pearson, who was appointed by me disbursing agent to discharge the debts and liabilities of the State incurred in suppressing Indian hostilities in the year 1856. I negotiated a loan for the State, through the agency of Colonel Pearson, in the cities of Charleston and Savannah, for $241,300, payable in twelve months, which will be due in April, 1860. The State realized in cash from said loan $222,015, and has disbursed $193,331, leaving a cash balance of $28.684, as per report of the disbursing agent, to which your attention is respectfully invited. The abstracts and vouchers for the unpaid claims referred to in the report of the agent have been placed in his hands with instruction to pay the same. In this connection I would call your attention to the fact that no claims for services rendered prior to the mustering in of the several companies have been paid. In several instances companies were organized on the first outbreak of the Indians without awaiting orders and promptly marched to the defense of the unprotected citizens, who were being massacred by the savages, and actually performed active and arduous service for which they have not been paid. This service was recognized and approved by the executive, but the agent has not felt authorized to pay from the day of enrollment, but from the date of mustering in, in accordance with the Army Regulations of the United States. I would respectfully recommend that the several companies of State troops be paid from the date of enrollment, upon satisfactory proof being made that they did actually perform active service in suppressing Indian hostilities. The act "to provide for the payment of the debts of the State," approved December 27, 1856, authorized the issuance of $500,000 of bonds in the name and behalf

of the State, for the payment of the debts of the State, or so many thereof as may be necessary, conditioned, however, that the said bonds should be sold at their par value or hypothecated for the payment of a loan to the State, to be negotiated on the most practicable terms. It was questioned by capitalists whether the power to hypothecate carried with it the right to sell the bonds upon the failure of the State to pay the loan at maturity, and I was unable either to sell the bonds at their par value or to negotiate a loan upon them by hypothecation. This fact was communicated by me to the legislature, and the difficulty removed by "An act in addition to an act to provide for the payments of the debts of the State," approved January 15, 1859, empowering the governor to stipulate for the sale of the bonds hypothecated, or so many thereof as may be found necessary, at their market value, to meet the debt at maturity in the event the same shall not be otherwise provided for.

It has always been claimed, and I believe never denied, that the duty of suppressing Indian hostilities devolved upon the General Government, and that Government had long ago endeavored to effect their removal, and assumed the right to permit them to remain in the State, and withdrew the protection which the people had a right to expect. On the breaking out of hostilities the people on the frontier, for want of the protection which it was the duty of the Federal Government to give, found it necessary to embody themselves, and perform the service which the exigencies of the times imposed upon them, and in doing so they had to abandon their usual occupations and suffer all the privations incident to an exposed frontier life. Under these circumstances the State felt it due to her own citizens to provide for their payment, relying on the justice of the General Government to refund to her the amount which she felt it her duty to pay.

The justice of such a demand can not rightfully be disputed, and it is hoped will at once be recognized. I therefore recommend that the general assembly will, either by memorial or resolutions, or such other mode as they deem best, request of Congress the passing of a law refunding to the State the amount she has expended.

The loan made by the State to enable her to pay the just claims of her citizens falls due in April next, for the payment of which $346,000 of the bonds of the State have been hypothecated, by virtue of authority in me vested by the above-recited acts, and as the Federal Government may fail to refund in time the amount thus advanced by the State, I would recommend that the governor be authorized to sell, at their fair market value, so many of the bonds as may be found necessary to pay the loan at maturity, rather than permit them to be thrown upon the market at the option of the parties holding them, in the event of the payment not being otherwise provided for.

Very respectfully,

M. S. PERRY.

TALLAHASSEE, FLA., *November* 30, 1859.

DEAR SIR: I herewith transmit to you a statement, together with my account current with the State of Florida as disbursing agent in the settlement of militia claims for services rendered in the year 1856:

I received from the State in cash		$222,015
I have paid claims to the amount of	$193,331	
Cash balance on hand ready to pay over	28,684	
		222,015

I refer to account current, with vouchers, for proof. The pay-rolls show the amount of nearly $1,800 which is yet unpaid, owing to the fact that the parties performing the service for which it is due have deceased; and no representatives have qualified as executors or administrators to receipt for the same. The abstracts and vouchers of Captains Hooker, E. T. Kendrick, Addison, and Parker's companies, for transportation, etc., have not been placed in my hands for disbursement; consequently they are not paid. I have no means of knowing the amount, as I have not been able to see abstracts and vouchers.

Very respectfully, your obedient servant,

J. W. PEARSON,
Disbursing Agent.

His Excellency Governor PERRY.

J. W. Pearson, in account with State of Florida.

DR.

To cash received from Bank of Charleston	$92,000.00
To cash received from Peoples' Bank	46,000.00
To cash received from the Peoples' Bank	12,880.00
To cash received from S. W. R. R. Bank	46,000.00
To cash received from Merchants and Planters' Bank	25,135.00
	222,015.00
To balance	29,029.84
Less additional allowance, account omitted	345.00
	28,684.84

CR.

By cash paid A. J. T. Wright's company	9,667.71
By cash paid Asa Stewart's company	11,510.89
By cash paid A. Bell's company	3,526.62
By cash paid W. B. Hardee's company	180.14
By cash paid Robert Youngblood's company	5,804.18
By cash paid E. Daniel's company	1,999.35
By cash paid A. D. Johnston's company	16,739.85
By cash paid A. D. Johnston's company	8,893.93
By cash paid W. H. Kendrick's company	16,277.99
By cash paid W. H. Kendrick's company	8,966.50
By cash paid Ed. Kendrick's company	3,243.36
By cash paid L. G. Lesley's company	14,108.24
By cash paid W. B. Hooker's company	4,809.57
By cash paid John Addison's company	10,232.41
By cash paid F. M. Durrance's company	15,794.93
By cash paid F. M. Durrance's company	9,693.00
By cash paid John McNeill's company	2,059.03
By cash paid John McNeill's company	3,303.06
By cash paid Simeon Sparkman's company	2,967.31
By cash paid Thomas Hughey's company	803.91
By cash paid R. B. Sullivant's company	809.15
By cash paid A. J. T. Wright's company	574.68
By cash paid John Parker's company	4,556.69
By cash paid staff officers, assistant surgeons, etc	12,341.49
By cash paid quartermaster men	710.33
By cash paid transportation, etc	17,546.95
By cash commissions for negotiating and disbursing	5,550.37
By cash on hand due State of Florida	29,029.84
	222,015.00

TALLAHASSEE, *December* 2, 1859.

I have compared with this account the abstract of disbursements on account of transportation, etc., and find that the paymaster is entitled to $345 more than is embraced in this account.

I also find the account to correspond with abstracts of disbursements to staff officers, etc., and persons employed in the quartermaster's department. The proper amounts are as follows:

Transportation, etc	$17,891.95
Staff officers, etc	12,341.49
Quartermaster men	710.33

HUGH ARCHER,
Quartermaster-General.

I have compared the pay-rolls with the above (except $12,341.49, $710.43, and $17,546.95) and find them to correspond.

C. H. AUSTIN,
Paymaster.

DECEMBER 2, 1859.

STATE OF FLORIDA,
Office of the Secretary of State:

I, John L. Crawford, secretary of state, do hereby certify that the foregoing (embraced in pages 1 to 7, inclusive) is a true and correct copy of and transcript from the original manuscript record of the proceedings of the senate of the State of Florida as recorded on pages 519, 520, 521, and 522 of "Record Book D, senate journal of 1856 to 1861," and as the same appears on pages 102, 103, 104, and 105 of the printed official journals of the senate.

Given under my hand and the great seal of the State of Florida this 12th day of April, A. D. 1882, at Tallahassee, the capital.

[SEAL.] JNO. L. CRAWFORD,
Secretary of State.

Some of the bonds issued by the State of Florida under the authority of these statutes, to the amount of $132,000, were sold to the General Government as trustee of the Indian trust fund, and it has always been contemplated that these bonds should be brought into the proposed settlement between the State and the United States whenever it was made, and the Committee on Military Affairs so recommended in their report.

The bonds issued by the State obligated the State to pay interest upon the debt at the rate of 7 per cent. per annum, and this interest is now due on the bonds belonging to the Indian trust fund from July 1, 1861, up to which date it was paid by the State. The Committee on Military Affairs, in the report referred to, found as a matter of fact that the State was compelled to borrow money with which to pay the expenses of these military operations in which this claim originated, and they further recognized the fact that "Congress has universally paid interest to the States where they have paid interest." They further say:

"Thus it will be seen that the precedent for the payment of interest under the rule adopted for the settlement of claims of the war of 1812–1815 is well established."

But the committee did not make its recommendations entirely in harmony with its findings. It proposed to deduct the amount of the bonds belonging to the Indian trust fund from the amount expended by the State and to pay the State the balance without interest:

Amount due Florida, as per report of Secretary of War	$224,648.09
Bonds due the Indian trust fund	132,000.00
Balance	92,648.09

The committee further proposed to pay the debt to the Indian trust fund and deliver to the State her bonds and coupons. But the State felt that she was entitled to be re-imbursed for the interest she had paid to other creditors as well as for that she had paid and still owed the Indian trust fund, and was not willing to accept a settlement on this basis.

This matter came again before the Forty-eighth Congress at its first session, and was referred in the Senate to the Committee on Military Affairs. This committee again recognized the debt and recommended the same settlement as before, but no final action was taken.

It came up again before the Forty-ninth Congress, at its first session, in the Senate, and the same committee renewed its former recommendation, and the bill (S. 1729) to carry out the proposed settlement was passed; but the vote by which it was passed was reconsidered, and the bill was placed on the Calendar, and there remained until the final adjournment.

Meanwhile the House had been considering the same matter without final action until the Forty-ninth Congress, when a bill was passed substantially the same as that now before the Senate and this committee. It recognized the entire claim of the State, principal and interest, and provided for a settlement upon this basis. The bill after its passage in the House came to the Senate and was referred to this committee during the second session, and was reported adversely a few days before the final adjournment. A minority report was made, favoring the passage of the House bill, and went to the Calendar, but no final action was taken upon it. A favorable report has been again made upon a bill of the same tenor by the House Committee on Claims at the first session of the present Congress, and the bill so reported is now there upon the Calendar.

The only unfavorable report ever made upon this Indian war claim was that made by a majority of this committee in the Forty-ninth Congress. The President recognized its justice in 1857; the Senate and its Committee on Military Affairs have more than once passed favorably upon the claim for the principal; the War Department, through Secretary Lincoln, found a large amount due the State, after a most careful examination, in 1886 and 1887; the House of Representatives found principal and interest due the State to the full amount claimed.

These results have been reached after careful examinations into the circumstances

of the case and the law applicable thereto, and the burden of proof, after these findings of fact and law, ought to be upon those who discredit the claim. These findings should stand unless new evidence is found as a basis for a new trial or a rehearing.

The record shows that the war was commenced in 1855 by an attack made by the Indians upon a detachment of United States troops, resulting in the death of four men and the wounding of three others. Florida was then a frontier country. She had already suffered severely in the former Seminole war, from 1835 to 1842, and the governor at once placed troops in the field to defend the people along an exposed and far-extended line of operations. The General Government did not at first seem to appreciate the difficulties of the military situation in a country so well adapted as Florida was to the peculiar warfare of the Indians, and only a portion of the troops offered by the governor were accepted. The State troops were, nevertheless, maintained in the field and rendered valuable assistance to the troops in the service of the General Government.

The war lingered along until 1857, when General Harney was put in command, and the regular troops, which numbered 840 in 1855, 866 for the first nine months of 1856, was increased to 1,756 from October 1, 1856, to September, 1857. Meanwhile there were in the United States service 321 volunteers in 1856 and 1,164 in 1857. The importance of having a larger number of troops in the field than at first was deemed necessary was afterwards manifest, and the President approved of the employment of those whose services had not been accepted. May 21, 1857, it was ordered by him, through the War Department, that they be mustered in and out of the service, so that they might be recognized as having been in the service of the United States. It was too late to do this, and the Secretary wrote that the Department should receive the State rolls as official.

It will be seen by reference to the report of the Secretary of War already referred to, made May 22, 1882, that the volunteer troops thus retained and employed by the State, after the failure of the War Department to accept them, served for different periods, beginning and ending at different dates, from April 28, 1856, to January 14, 1857, extending to within a few months of the time when the President recognized and approved of their services.

Had the troops been mustered as directed, the United States would have paid them, but as they were not, the Secretary stated that the only course left was to base upon the State rolls a recommendation to Congress for the necessary appropriation to pay off the troops.

The troops had rendered the service; the General Government, whose province it was to carry on the war, had found the service necessary, and the State after this approval had paid the troops and the expenses incurred in keeping them in the field. Surely the claim of the State to be re-imbursed is just and equitable.

The record shows, too, that in order to pay off these troops who had defended the country against these hostile Seminoles the Sate had borrowed money from the Indian trust fund and other sources upon her bonds, upon which she has paid or is still obligated to pay interest at 7 per cent. per annum from January 1, 1857, and from April 1, 1859, upon those negotiated at a later date. There can be no complete re-imbursement without the repayment of this interest.

There is no obstacle in the way of this re-imbursement. The Secretary of War has found the amounts actually expended by the State, so far as the State was able at this late day to prove the amounts by legal vouchers; the rate of interest is known; the date of the bonds is known; and the amount of the bonds in the Indian trust fund is known; and the State desires them to be paid out of the moneys due her on this account.

These statements are undisputed; most of them are historic; the only adverse report ever made upon the claim admits all the essential facts here set forth.

The report goes on to mention certain other items which it had been proposed to bring into the settlement, which will be referred to more at length hereafter, so far as they are important, and ends with a recommendation that with certain amendments the bill pass, giving to the State the principal and interest upon the aggregate of the sums advanced by her, as shown by the report of Secretary Lincoln, after deducting therefrom the amount of principal and interest due upon the bonds of the State in which the Indian trust funds had been invested. The following is the language of the bill as reported:

A BILL to authorize the Secretary of the Treasury to settle and pay the claim of the State of Florida on account of expenditures made in suppressing Indian hostilities, and for other purposes.

Whereas under the joint resolution of Congress approved March third, eighteen hundred and eighty-one, directing the Secretary of War to investigate the claim of

the State of Florida against the United States for the suppression of Indian hostilities, between the years eighteen hundred and fifty-five and eighteen hundred and sixty, the said Secretary of War did investigate said claim and ascertain the amount due to the said State to be two hundred and twenty-four thousand six hundred and forty-eight dollars and nine cents, as returned to Congress in the letter of the Secretary of War, dated May twenty-second, eighteen hundred and eighty-two, in Executive Document Number Two Hundred and Three; and

Whereas there is now held by the Treasury of the United States, in trust for the Indian trust fund, certain bonds of the State of Florida aggregating the sum of one hundred and thirty-two thousand dollars; and

Whereas there has been credited upon the account of said bonds of the State of Florida certain moneys due said State under the act approved March third, eighteen hundred and forty-five, entitled "An act supplemental to the act for the admission of Florida and Iowa into the Union, and for other purposes;" and

Whereas certain other moneys are due said State under the act approved March second, eighteen hundred and fifty-five, entitled "An act for the relief of purchasers of swamp and overflowed lands:" Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to settle and adjust the claim of the said State of Florida as found and reported in said letter of the Secretary of War, dated March twenty-second, eighteen hundred and eighty-two, and under the acts above cited, and to pay to the said State such sum of money as he may find to be due the said State, and in making such settlement he shall retain the whole, or so much thereof as may be necessary, of said allowance or settlement and apply the same to the payment of the principal and interest, or either, of said bonds of the State of Florida, held as aforesaid, or to the reimbursement of the United States of moneys advanced by the United States on account of interest due on such bonds, and shall demand of said State, and allow to it, upon said claim or claims for the purpose of such settlement, the rate of interest stipulated in said bonds, apply the same to the payment of the balance due of the principal and interest, or either of said bonds of the State of Florida, held as aforesaid, after a proper credit is given for such sums as may have been retained by the Secretary of the Treasury under section thirty-four hundred and eighty-one of the Revised Statutes, or to the reimbursement of the United States of moneys advanced by the United States on account of interest due on such bonds, and shall demand of said State, and allow to it, upon said claim or claims for the purpose of such settlement, the rate of interest stipulated in said bonds: *Provided*, That in computing the interest on said advances, the Secretary of the Treasury shall apply the following rule as applied by act of Congress to the claim of the State of Maryland, namely: Interest shall be calculated from the date said advances were made up to the time of any payment. To this interest the payment shall be first applied, and if it exceeds the interest due, the balance shall be applied to diminish the principal; if the payment fall short of the interest, the balance of interest shall not be added to the principal, so as to produce interest.

The bill thus stood upon the calendars of the two Houses favorably reported. But it was manifest that the amount of business awaiting consideration and action was so large in the Senate that the prospect of reaching the bill was hopeless, and on the 19th day of February, 1889, the junior Senator from Florida, who had reported the bill, offered an amendment to the deficiency bill to carry out the same purpose as the bill. The amendment was as follows, and it was referred to this committee:

AMENDMENT intended to be proposed by Mr. PASCO to the bill (H. R. 12571) making appropriations to supply deficiences in the appropriations for the fiscal year ending June thirtieth, eighteen hundred and eighty-nine, and for prior years, and for other purposes, viz: Insert the following:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to settle and adjust the claim of the State of Florida as found and reported in the letter of the Secretary of War, dated March twenty-second, eighteen hundred and eighty-two, and under previous acts of Congress, and to pay to the said State such sum of money as he may find to be due the said State; and in making such settlement he shall retain the whole, or so much thereof as may be necessary, of said allowance or settlement and apply the same to the payment of the principal and interest, or either, of said bonds of the State of Florida held by the Treasurer of the United States in trust for the Indian trust fund or to the re-imbursement of the United States of moneys advanced by the United States on account of interest due on such bonds, and shall demand of said State, and allow to it, upon said claim or claims for the purpose of

such settlement, the rate of interest stipulated in said bonds, apply the same to the payment of the balance due of the principal and interest, or either, of said bonds of the State of Florida, held as aforesaid, after a proper credit is given for such sums as may have been retained by the Secretary of the Treasury under section thirty-four hundred and eighty-one of the Revised Statutes, or to the re-imbursement of the United States of moneys advanced by the United States on account of interest due on such bonds, and shall demand of said State, and allow to it, upon said claim or claims for the purpose of such settlement, the rate of interest stipulated in said bonds: *Provided*, That in computing the interest on said advances, the Secretary of the Treasury shall apply the rule applied by act of Congress approved March third, eighteen hundred and fifty-seven, to the claim of the State of Maryland. And there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, so much money as may be necessary to carry out the above provision.

This was subsequently reported back to the Senate with a recommendation that it be adopted when the bill came before the Senate for action.

This amendment, thus favorably reported, was offered in the Senate March 1, 1889, when the deficiency appropriation bill was under consideration, and was adopted upon a division. The bill afterwards went to a conference committee of the two Houses and the amendment was retained, but the appropriation feature was removed and the scope was enlarged, whether intentionally or not, so as to make the examination and report of the Secretary cover the amount of all mutual claims and the entire account between the General Government and the State. The amendment as thus reported reads as follows:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to examine the claim of the State of Florida, reported in the letter of the Secretary of War dated May 22, 1882, and under previous acts of Congress, and to make a report upon the same to the next regular session of Congress, and in connection therewith to report the amount of all claims in favor of the General Government against the State of Florida, and in said report to state the account between the General Government and the State of Florida.

The following colloquy occurred when the conference report had been submitted March 2, 1889, as appears on page 2897 of the Record for that session:

Mr. PASCO. I should like the Senator from Maine to state whether the understanding is that the account of the State of Florida is to be made up upon the principle involved in the present amendment to the bill.

Mr. HALE. Yes; the Secretary of the Treasury is directed by the amendment agreed to by the conference committee to report the sums due to the State of Florida, and any offset that the United States has against the claim, to the next Congress.

Mr. PASCO. Recognizing the right to charge and receive interest on each side?

Mr. HALE. Yes, sir.

Mr. EDMUNDS. But still subject to the future consideration of Congress?

Mr. HALE. Subject to the action of the next Congress.

Mr. PASCO. Undoubtedly; but I wished to understand whether it was made up on the principle established in the amendment to the present bill.

The following extract from the Secretary's report, made in obedience to this legislation, sets forth the amounts in favor of the State:

The State advances two claims under this provision, viz:

First. The claim specifically referred to in the act as reported in the letter of the Secretary of War, May 22, 1882. This claim is for the re-imbursement of certain expenses incurred by the State in suppressing Indian hostilities between December 1, 1855, and January 1, 1860, $268,103.40 (*vide* joint resolution of March 3, 1881; also report by Secretary of War, in House Ex. Doc. No. 203, Forty-seventh Congress, first session).

Second. Sundry expenses for similar purposes, incurred in 1849, but not paid by the State until 1859, $21,685.72. In making the report above referred to the Secretary of War excluded these items because the joint resolution under which he was acting was limited to expenses incurred between December 1, 1855, and January 1, 1860. But the act of 1889 requires a report upon any now unsettled claims by the State.

On the claim originating in the years 1855–'59 (*vide* detailed statement) I find an expenditure proven in the sum of	$246,426.51
Deduct amount realized by the State by sales of military stores (Ex. III)	1,405.65
	245,020.86
In the items of expenses in 1849 (paid by State in 1859) I find an expenditure proven (*vide* detailed statement) in the sum of	16,913.45
Aggregate	261,934.31

Exhibit I of this report shows the companies called into the military service by the State, during these hostilities in 1856–'57, the period of their service, the amount paid to each according to the claim of the State. It is here inserted because this is the basis of the claim, the other items being for subsistence, forage, and other expenses connected with their service.

EXHIBIT I.—*Summary of Third Auditor's allowances for "pay of troops" from December* 1, 1855, *to January* 1, 1860. (*Abstract A.*)

Company.	No. of roll.	Period of service.		Claim.	Amount allowed.	Amount disallowed.
		From—	To—			
W. B. Hooker	1	Jan. 3, 1856	Feb. 21, 1856	$4,809.57	$4,557.01	$252.56
F. M. Durance	2	Feb. 21, 1856	Aug. 22, 1856	15,794.91	15,416.21	378.70
Do	3	Aug. 22, 1856	Dec. 21, 1856	9,693.00	9,567.92	125.08
William H. Kendrick	4	Feb. 26, 1856	Aug. 28, 1856	16,277.99	16,158.46	119.53
Do	5	Aug. 28, 1856	Dec. 6, 1856	8,906.50	8,832.11	74.39
A. D. Johnson	6	Feb. 26, 1856	Sept. 2, 1856	16,739.85	16,459.66	280.19
Do	7	Sept. 2, 1856	Dec. 20, 1856	8,833.93	8,706.46	127.47
Leroy G. Leslie	8	Mar. 12, 1856	Aug. 20, 1856	14,108.34	13,740.30	368.04
A. J. T. Wright	9	Apr. 28, 1856	May 17, 1856	574.68	544.49	30.19
Do	10	May 18, 1856	Aug. 1, 1856	9,667.71	9,566.96	100.75
John McNeill	11	May 15, 1856	Aug. 12, 1856	2,059.45	2,004.05	55.40
Asa A. Stewart	12	May 18, 1856	Sept. 30, 1856	11,510.89	11,492.31	18.58
Robert Youngblood	13	May 18, 1856	Sept. 30, 1856	5,804.18	5,698.05	106.13
Enoch Daniel	14	May 30, 1856	July 20, 1856	1,994.82	1,981.85	12.97
Wm. B. Hardee	15	June 1, 1856	June 29, 1856	180.14	179.04	1.10
Alexander Bell	16	June 24, 1856	Sept. 30, 1856	3,526.62	3,411.61	115.01
Thomas Hughey	17	Aug. 18, 1856	Sept. 30, 1856	784.40	781.02	3.38
E. T. Kendrick	18	Oct. 23, 1856	Jan. 14, 1857	3,243.36	3,199.16	44.20
John Addison	19	Apr. 8, 1856	Oct. 7, 1856	10,232.43	10,232.43	.....
John Parker	20	Oct. 7, 1856	Dec. 15, 1856	4,556.59	4,023.58	532.91
John McNeill	21	Not stated on abst.		3,303.06	3,237.00	66.06
S. Sparkman	22	.....do		2,967.31	2,907.96	59.35
R. B. Sullivant	23	.....do		809.15	809.15	.....
Field and staff	26½	.....do		12,341.49	10,138.60	2,202.89
Total	.....			168,720.37	163,645.79	5,074.58

NOTE.—Rolls 24, 25, and 26, aggregating $11,316.91, pertain to payments made by the State of Florida for services in 1849, and are not included in above statement.

All of the items claimed above are found to the debit of the State in its account with its disbursing agent, which appears earlier in this report.

If the items mentioned in the note had been added the total sum claimed would have been the same as that included in Abstract A of the report made by Secretary Lincoln.

Exhibit II is a summary of the abstracts with the aggregate amounts allowed and disallowed upon each.

EXHIBIT II.—*General summary of Third Auditor's allowances on items pertaining to Indian hostilities*, 1855–'59.

Abstract.	For what purpose.	Amount of claim.	Amount allowed.	Amount disallowed.
A	Pay of troops	$168,720.37	$163,645.79	$5,074.58
B	Subsistence	23,836.44	21,587.07	*2,249.37
C	Forage	42,304.62	32,429.60	†9,875.02
D	Transportation	19,843.28	17,286.89	2,556.39
E	Camp and garrison equipage	193.81	98.59	95.22
F	Quartermasters' stores	589.67	395.16	194.51
G	Ordnance	808.43	507.80	300.63
H	Contingencies	10,332.84	9,862.59	470.25
I	Stationery	111.11	104.20	6.91
K	Medical and hospital stores	1,362.83	508.82	854.01
	Total	268,103.40	246,426.51	21,676.89

NOTE.—Abstract K includes accounts of J. M. Cooper, J. A. Jarrard, Fred. K. Lykes, and Perry G. Wall for $7.50, $22, $5.90, and $31.25, respectively. (See Colonel Barr's report, pages 91 and 96.)

*The sum of $1,514.52 of the amount disallowed is for subsistence of Captain Dyche's company in 1849, and is commented on under head of expenditures for that period.

†Items $150, $4,410.77, and $4,293.52 of the amount disallowed are for forage for troops in 1849, and are commented on under head of expenditures for that period.

The total amount allowed upon these items in the report of the Secretary of War was $224,648.09, or $21,778.42 less. Many of the other items were suspended; some were disallowed.

The amount of $246,426.51 above allowed is increased in the report by an earlier claim for similar expenses in 1849. This was set up in the bill introduced during the Fiftieth Congress, but the committee recommended no action upon it. The broader scope of the amendment which became a part of the law enabled the Secretary of the Treasury to include these earlier expenditures in this report.

Exhibit IV of this report includes the unsettled demands pertaining to the Indian hostilities of 1849, which were not reported upon by the Secretary of War in 1882 because they were not regarded as within the scope of the joint resolution approved March 3, 1881, but the Secretary of the Treasury considered them as included in the later inquiry. This exhibit is as follows:

EXHIBIT IV.—*General Summary of Third Auditor's allowances on items pertaining to Indian hostilities in* 1849.

For what purpose.	Amount of claim.	Amount allowed.	Amount disallowed.
Capt. H. D. Dyche's company	$4,786.43	$4,786.43	.....
Capt. A. Jernigan's company	4,929.48	4,929.48	.....
Capt. J. O. Devall's company	1,601.00	1,389.50	$211.50
A. L. Caruthers, subsistence	1,514.52	1,514.52	.....
S. L. Sparkman, forage	150.00	.....	150.00
A. Jernigan forage	4,410.77	.....	4,410.77
A. L. Caruthers, forage	4,293.52	4,293.52	.....
	21,685.72	16,913.45	4,772.27

The first three items aggregate $11,316.91, and are the same as those referred to in the note to Exhibit I.

The basis of the former report was the amount found to be due by the Secretary of War, and was restricted to the Indian hostilities of 1855 to 1857. The later report is increased by a more liberal ruling as to the formal evidence of the discharge of its obligations by the State.

The reason for the additional allowance is in each instance given in the Secretary's report. The statement of the difference and the increased amount found in the later report is as follows:

Amount found due the State by Secretary of War	$224,648.09
Additional items of same account reported favorably in letter of Secretary of Treasury	21,778.42
Total in war from 1855 to 1857	246,426.51
Items due on account of war of 1849	16,913.45
	263,339.96
Amount realized by State from sale of stores	1,405.65
Amount found due in letter of Secretary of Treasury	261,934.31

In the earlier reports of the Senate and House the muster-rolls have been printed, and Exhibit I shows the period during which each company rendered its military service, except the three last named, and the periods of their service as taken from the rolls filed in the office of the Adjutant-General at the War Department appear to be as follows:

John McNeill's company, October 13, 1856, to December 25, 1856; S. Sparkman's company, December 31, 1855, to February 18, 1856; R. B. Sullivant's* company, September 6, 1856, to September 30, 1856.

The letter of the Secretary of the Treasury proceeds to consider the offsets held against this claim by the United States. As already stated, some of the bonds issued by the State to raise money to meet this indebtedness, amounting in all to $132,000, were purchased by the Government as an investment for the Indian trust funds under the control of the Secretary of the Interior. These bonds obligated the State to pay interest at the rate of 7 per cent. per annum, and in the last report of this committee it was shown that the State met these interest payments up to July 1, 1861. The statement of the Secretary of the Treasury shows that since then certain amounts which have become due the State from time to time from the General Government, under the act for the admission of Florida into the Union and a subsequent act for the relief of purchasers of swamp-lands, and an amount appropriated to the State for taking the census of 1885 have been applied to the payment of the accruing interest on these bonds. The aggregate of these amounts is $109,494.23, and the following extract from the Secretary's letter shows that the application to the payment of the interest upon the bonds on which the Indian trust funds were invested has discharged the obligation of the State for interest thereon to November 26, 1863:

> The Secretary of the Interior reports that the United States holds, as assets of its "Indian trust fund," bonds of the State in the sum of $132,000, bearing 7 per cent. interest; that the interest to July 1, 1862, was paid by the State, and that, since the suspension of the interest payment, by it, the Interior Department has from time to time applied to the interest sundry accounts falling due to the State on sundry accounts. And thus it appears that at this date the interest has been paid to include November 26, 1873.

The accounts to be adjusted then stand as follows: The State of Florida has paid the sum of $261,934.31 for expenses incurred in keeping troops in the field in 1849 and in 1856 and 1857, during the continuance of a war with the Indians, and in 1857 and 1859 borrowed money upon her bonds to meet the necessary expenditures incurred during the later war, the said bonds drawing interest payable semi-annually at the

*Also spelled Sullivan.

rate of 7 per cent. per annum. The Secretary's letter equalizes the date of these bonds as the first day of January, 1858.

The United States, as the trustee of the Indian trust, funds has a claim against the State for $132,000, which was invested in some of the bonds of the State, issued and sold to raise the money needed to pay these expenditures in the Indian war, and there is due on these bonds interest at 7 per cent. per annum from November 26, 1873.

Two methods are suggested for striking a balance: (1) By computing interest on each side to the day of settlement. (2) By computing interest on the amount due the State to November 26, 1873 (the date to and including which the interest due on the bonds in which the Indian trust funds have been invested has been paid), and striking a balance and computing interest to the day of settlement on the principal of the amount advanced by the State. The effect of this second method will be to stop the interest as against the State from November 26, 1873. The amount due the State according to the first method on the first day of January last was $567,954.50; and according to the second method at the same time, $716,667.15. The United States stands in the relation of trustee towards these funds, and they should suffer no diminution, either as to interest or principal, by the delay in this settlement. As no complete justice can be done to the beneficiaries of this trust without continuing to pay them the interest on their capital invested in these bonds until the day of settlement and the payment of the bonds, the committee are of the opinion that the first method suggested in the Secretary's report should be adopted, and that the interest should b · computed on both sides to the day the settlement is made, and that all the outstanding bonds and coupons of the State of Florida should then be surrendered to the Governor of the State.

In order to carry out these views the bill should be amended so as to read as follows:

That the Secretary of the Treasury be, and he is hereby, authorized to settle the account stated between the United States and the State of Florida, under the authority of section five of the act approved March second, eighteen hundred and eighty-nine, entitled "An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June thirtieth, eighteen hundred and eighty-nine, and for prior years, and for other purposes;" and in making such settlement he is hereby authorized to set off what is found to be due by the State to the day of settlement, on account of principal and interest upon the bonds of the State, in which a portion of the Indian trust funds has been invested, against what is found to be due the State to the same date for moneys expended by her during the Indian hostilities of eighteen hundred and forty-nine, and eighteen hundred and fifty-six, and eighteen hundred and fifty-seven, and to surrender such bonds and the coupons thereto to the governor of said State upon making such settlement. And in making the settlement the Secretary is directed to follow the statement of the account as made under the authority of said act, as found in the letter from the Secretary of the Treasury dated December sixteenth, eighteen hundred and eighty-nine, published as Executive Document Numbered Sixty-eight, House of Representatives, and to adopt the first mode of settlement proposed near the foot of page three of said document, continuing the computation of interest upon the principal on both sides to the date of settlement. And such sum of money is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, as is necessary to make such settlement.

O

51st Congress, 1st Session. | SENATE. | Report No. 1540.

IN THE SENATE OF THE UNITED STATES.

July 24, 1890.—Ordered to be printed.

Mr. Frye, from the Committee on Commerce, submitted the following

REPORT:

[To accompany S. 4213.]

The Committee on Commerce, to whom was referred the bill (S. 4213) granting an American register to the steamer *Italia*, having considered the same and accompanying evidence, report as follows:

The steamer *Italia* was built in 1888 by the firm of William Dobson & Co., of Low Walker, England. She was purchased by Johan Luda Mowinckel & Son, of Bergen, Sweden, and was by them employed in the fruit-carrying trade until May, 1890, when she was wrecked on Watling's Island, one of the smaller of the Bahamas, located about 300 miles east of the coast of Florida.

The vessel was so seriously damaged that she was abandoned by her crew and fell into the hands of the natives, who, after having stripped her of every portable article, set fire to and destroyed everything of an inflammable nature, including her decks, rigging, and masts, thus making of the vessel a complete wreck.

Shortly after this occurrence the abandoned hulk was taken possession of by the underwriters, who, under date of June 18, 1890, and with the consent of her Swedish owners, sold her to a firm of American citizens, Messrs. Sprague & Breed, of Lynn, Mass., for the sum of $11,000. These gentlemen have since expended or contracted to expend the sum of $55,000 in necessary expenses and repairs: $40,000 having been paid the Atlantic works, of Boston, alone, for repairs and reconstruction of the wreck into a steam-collier.

These facts are evidenced by sworn statements submitted to the committee, and as the circumstances under which the wreck occurred alone prevent the owners of this vessel from obtaining an American register under the general statute, and as they are not regarded by this committee as of sufficient weight to warrant the refusal by Congress of this register, the passage of the bill with an amendment causing it to accord with the customary form of such measures, is recommended.

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1541.

IN THE SENATE OF THE UNITED STATES.

JULY 25, 1890.—Ordered to be printed.

Mr. MOODY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 1552.]

The Committee on Pensions, to whom was referred the bill (S. 1552) granting a pension to Louise Selden, have had the same under consideration, and report thereon as follows:

The beneficiary in this bill is the widow of James M. Selden, late a captain in the U. S. Revenue-Marine Service. He died in the service from a sun-stroke incurred therein after having served for thirty years through all the grades from third lieutenant to captain, inclusive. The facts with reference to his service, his history, and the circumstance of his death are set forth in a report from the Committee on Pensions of the House of Representatives, at the first session of the Fiftieth Congress, and that report your committee adopt, which is hereto appended.

Your committee is advised that this widow is still in very indigent circumstances, and has an almost hopeless struggle to gain for herself and her children a subsistence.

Wherefore your committee report back the bill with an amendment inserting the words "per month" at the end of the last line therein, and recommend its passage.

House Report No. 3267, Fiftieth Congress, first session.

AUGUST 15, 1888.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUTLER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R.10601.]

The Committee on Pensions, to whom was referred the bill (H. R. 10601) granting a pension to Louise Selden, have considered the same, and report as follows:

The claimant is the widow of James M. Selden, late a captain in the U. S. Revenue-Marine Service. He died in service from sun-stroke incurred therein. His service extended over a period of thirty years. The following letter from the Secretary of the Treasury, and the affidavit of Dr. Thomas T. Minor, give the full history of Captain Selden's service and the circumstances of his death:

TREASURY DEPARTMENT, *July* 6, 1888.

SIR: I have the honor to acknowledge the receipt of letter of the Committee on Pensions, House of Representatives, dated the 2d instant, in which is requested information in relation to the service in the U. S. Revenue Marine of the late Capt. James M. Selden.

In reply thereto I have respectfully to inform you that James M. Selden was appointed a third lieutenant in the U. S. Revenue-Marine Service October 28, 1856. He was promoted to be second lieutenant July 9, 1857, and captain March 7, 1867.

From the date of his entrance into the Revenue-Marine Service Captain Selden was engaged in the performance of active duty on different vessels of that service until April 21, 1882. On that date, while in command of the revenue steamer *Crawford* at Pensacola, Fla., he was taken violently ill. He was similarly attacked on the 28th; and on the 4th of May following a board of medical survey, a copy of whose report is herewith inclosed, recommended that he be detached from the vessel and granted sick leave. In accordance with the recommendation of the board he was, on the 20th of that month, relieved from command of the vessel named and granted sick leave, which leave was continued until August 28 following, when he was placed on "waiting orders," and was not subsequently assigned to duty. He died March 16, 1888.

The records of the Department fail to show whether the illness of Captain Selden, April 21 and 28, 1882, was occasioned by sun-stroke, as alleged.

Respectfully, yours,

C. S. FAIRCHILD,
Secretary.

Hon. A. M. BLISS,
Chairman Committee on Pensions, House of Representatives.

U. S. STEAMER CRAWFORD,
Off Pensacola, Fla., May 4, 1882.

SIR: In obedience to the collector's order of the 1st instant we have held a careful survey on James Miles Selden, captain U. S. Revenue Marine attached to the U. S.

revenue steamer *Crawford*, native of Maryland, aged forty-nine years, and beg leave to report as follows:

(1) Present condition, unfit for duty.

(2) Disease, debility.

(3) Probable future duration, indefinite.

(4) Recommendation, that he be detached from the command of this ship and granted sick leave.

(5) Origin, in the line of duty, from exposure to the vicissitudes of a sailor's life during long continued service.

Very respectfully,

J. C. WHITING, M. D.
A. M. OWEN,
Surgeon, U. S. Navy.

The SECRETARY OF THE TREASURY.

OCCIDENTAL HOTEL,
Seattle, Wash., June 1, 1888.

WASHINGTON TERRITORY,
King County, ss:

THOMAS T. MINOR, M. D., being duly sworn, deposes and says:

I hereby certify that the late Capt. J. M. Selden, of the U. S. Revenue-Marine Service was a patient of mine at various intervals during the last twenty years; that during said time, while he was on Puget Sound, I was his medical attendant. I further certify that after receiving sun-stroke at Mobile, Ala., he was placed on waiting orders and came directly to Puget Sound, and that he suffered from said sun-stroke until his death from softening of the brain, which was the result of said sun-stroke.

THOMAS T. MINOR, M. D.

Subscribed and sworn to before me this 1st day of June, A. D. 1888.

[SEAL.] JAS. B. METCALFE,
Notary Public in and for Washington Territory.

From the foregoing statements there can be no doubt that Captain Selden's death was due to his service in line of duty.

His widow has not applied for pension under the general law, and has no title thereunder.

The only statutory provision for pensioning the officers and seamen of the Revenue-Marine Service is per section 4741 Revised Statutes, entitling such as may be wounded or disabled in the discharge of duty while co-operating with the Navy by order of the President.

But the duties of an officer of the Revenue-Marine Service are strictly maritime, and, unless in exceptional periods of actual war, are as onerous, hazardous, and responsible as those of a naval officer—far more so than those of officers of the Marine Corps, for whom provision is specially made. And from the nature of their duties they are continuously in active service.

During the period of the service of Capt. James M. Selden, and out of which this claim arose, that officer was charged with the fitting and equipping, at Baltimore, of the steamer *Wyanda*, the then largest vessel in the Revenue Service, and, as her captain, her navigation via Cape Horn to San Francisco, a voyage of perhaps 15,000 miles.

Captain Selden was in the service about thirty-two years, having been commissioned in 1856, and dying recently; always on active duty until stricken with the illness which forced him on the sick-list until it finally proved fatal.

The board of survey which recommended that he be detached from his command and granted sick leave, reported that the future duration of his disability was indefinite, and that it originated in the line of duty, from exposure to the vicissitudes of a sailor's life during long-continued service.

Though said board did not so state, his immediate disability in fact proceeded from sun-stroke incurred under the hot climate of the Gulf of Mexico while in active command of the steamer *Crawford*, and on the deck of that vessel.

His family physician, who attended him during his resulting fatal illness, removes any want of precision on that point. He testifies that the origin of said fatal illness was sun-stroke.

It would seem, then, consistent with the theory on which pensions are granted, that the cause of this officer's death having originated in active service and direct line of sea duty his widow should be pensioned, and at $30 per month, the rate provided for officers of equal rank in the naval and Marine Corps service.

Your committee learn that the petitioner and her two minor children are in indigent circumstances, and were dependent on the pay of the deceased for their maintenance.

They recommend the substitution of "thirty" for "fifty" in line 7 as the rate per month, and strike out the words "subject to the provisions and limitations of the pension laws," in lines 7 and 8, for the reason that there are no existing provisions and limitations applicable to the case, and thus amended recommend the passage of the bill.

51st Congress, 1st Session. | SENATE. | Report No. 1542.

IN THE SENATE OF THE UNITED STATES.

July 25, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2005.]

The Committee on Pensions, to whom was referred the bill (H. R. 2005) granting an increase of pension to Bennett S. Shaug, have examined the same and report:

The House report, on which this bill was passed, is concurred in and is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. 2005) granting an increase of pension to Bennett S. Shaug, have considered the same, and report:

The claimant was a private in Company K, Fifteenth Ohio Volunteers, and rendered honorable service in the war with Mexico, for which he is now a pensioner under the act of January 29, 1887, at $8 per month.

The claimant alleges that from an accumulation of sand in his shoes during long and severe marches in Mexico his feet became so sore and so much disabled as to finally result in incapacitating him for the performance of any manual labor, but by reason of the long time that has elapsed since said war he is unable to furnish the proof necessary to establish the facts relative to incurrence.

The soldier also rendered honorable service in Company B, Third Iowa Cavalry, during the war of the rebellion.

Drs. R. W. Huston, J. W. Bates, and Levi Loar testify that by reason of injury of the feet the claimant is so crippled as to be unable to perform any manual labor.

It is also reliably shown that the claimant is about sixty-four years old, poor and dependent, and unable to earn a living.

In view of the soldier's service in two wars, his age and disability, and the fact that the increase prayed for is necessary to his comfortable support, your committee return the bill with the recommendation that it do pass.

The bill is reported favorably, with a recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1543.

IN THE SENATE OF THE UNITED STATES.

July 25, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6164.]

The Committee on Pensions, to whom was referred the bill granting increase of pension to Thomas H. Isbell, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 6164) to increase the pension of Thomas H. Isbell, have considered the same, and beg leave to submit the following report:

The claimant was a private in Company F, First Kentucky Mounted Volunteers, Mexican war, and served from June 9, 1846, to June 9, 1847. He is now a pensioner at $8 per month on account of said service.

The bill proposes to increase his pension to $50 per month and the proof submitted in connection therewith shows that he is now totally blind, unable to do any work to support himself, and he is entirely dependent upon his small pension for a livelihood.

Congress has in similar cases increased the pensions of the veterans of the Mexican war, and your committee, believing this to be an exceptionally deserving case, respectfully recommend the passage of the bill.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1544.

IN THE SENATE OF THE UNITED STATES.

JULY 25, 1890.—Ordered to be printed.

Mr. MOODY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 3634.]

The Committee on Pensions, to whom was referred the bill (S. 3634) granting an increase of pension to Eli C. Walton, have had the same under consideration and submit the following report:

The testimony in this case shows that the claimant, Eli C. Walton, enlisted as a private in the Union Army November 21, 1861, was subsequently promoted to the position of sergeant, and was honorably discharged October 15, 1865; that at the time of enlistment he was in perfect health and sound in body; that while serving with his regiment, at Camp Anna, in the State of Illinois, in December, 1861, he contracted a severe case of measles which has affected his sight and hearing; that at Columbus, in the State of Kentucky, in May, 1862, on account of unusual hardships and exposure he contracted chronic diarrhea and heart disease. With these ailments he suffered continuously during his four years' service; they have since greatly increased and at this time the soldier. according to the testimony of the examining physicians, is very enfeebled, wholly incapacitated for the performance of any manual labor, and is further afflicted with consequent asthma and nervous prostration; and is partially paralyzed as a result of said diseases.

The claimant is now drawing a pension of $24 per month under existing laws, but in view of the facts in the case your committee is of the opinion the rate should be increased.

We therefore recommend the passage of the bill, with the following amendment: In line 5, strike out the word "fifty" and insert the word "forty."

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1545.

IN THE SENATE OF THE UNITED STATES.

JULY 26, 1890.—Ordered to be printed.

Mr. BUTLER, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany S. 2916.]

The Committee on Naval Affairs, to whom was referred the bill (S. 2916) to remit the penalties on gun-boat No. 2, known as the *Petrel*, have considered the same and recommend its passage, submitting in support thereof the following report made by the Committee on Naval Affairs of the House of Representatives upon a bill similarly worded to S. 2916, which report is herewith adopted as a part of this report.

[House Report No. 1655, Fifty-first Congress, first session.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 8324) to remit the time penalties exacted by the Secretary of the Navy from the Columbia Iron Works and Dry-Dock Company, of Baltimore City, in the construction of the gun-boat No. 2, known as the *Petrel*, have considered the same and find that the said company entered into the contract to build said gun-boat December 22, 1886, a copy of which is appended hereto

Under the 7th section of the contract the Secretary withheld from the payments for time penalties $56,450. Application was made by the company to the Department for remission of these penalties. In reply Secretary Tracy said, in a letter dated March 28, 1889:

While it appears that you have faithfully endeavored to comply with the terms of your contract, and that the delays preventing your full compliance therewith have been occasioned by unforeseen failures on the part of manufacturers of materials with whom you dealt, and that the Government has no pecuniary damages by reason of delay in the completion of the vessel, the existing state of facts as applied to the seventh clause of the contract imposing penalties for failure to complete the vessel at the time specified (such delay not having resulted from any act of the Government, its officers or agents, or from any cause or causes specified in said clause), leaves no discretion or authority in the Department to grant the extension asked for in your application. It is suggested, however, that the power to grant you the relief therein asked for rests with Congress alone, and that body can give due consideration and weight to such equities as you may have to present before it for its consideration.

In pursuance of the suggestion of the Secretary, the company petitioned Congress for relief, and the petition was referred to the Secretary of the Navy by the committee for his views. He replied as follows:

NAVY DEPARTMENT,
Washington D. C., March 7, 1890.

SIR: I have the honor to acknowledge the receipt of your communication of the 11th ultimo, inclosing the petition of the Columbian Iron Works and Dry-Dock Company, of Baltimore, Md., for the remission of certain penalties incurred under their contract for the construction of gun-boat No. 2, the *Petrel*, on account of delay in the completion of the vessel, * * * now under consideration by the Committee on Naval Affairs of the House of Representatives, and requesting information in relation to the subject of said petition, and an expression of the Department's views in the matter.

In reply, I have to inform you that under date of December 22, 1886, the Department entered into a contract with the Columbian Iron Works and Dry-Dock Company, of Baltimore, Md., for the consideration of gun-boat No. 2, the *Petrel*, in accordance with plans and specifications furnished by the Department.

The contract provided that the vessel should be completed and ready for inspection for the purpose of delivery to the United States on or before the expiration of twelve months from the date thereof, and the provision relating to penalties on account of delay in the completion of the vessel beyond the said period of twelve months, is contained in the seventh clause of the contract, and is as follows:

"In case the completion of the vessel and machinery shall be delayed beyond the said period of twelve months, penalties shall be imposed upon the parties of the first part for each and every day (excepting Sundays) in excess of said period and until the vessel and machinery are complete and ready for inspection, as follows, viz, during the six months next succeeding the expiration of said period, twenty-five dollars per day; during the three months next succeeding the expiration of eighteen months from the date of this contract, fifty dollars per day; during the twenty-second, twenty-third, and twenty-fourth months from the date of this contract, one hundred dollars per day; and for each and every day (excepting Sundays) during which such completion shall be delayed beyond a period of two years from the date of this contract, two hundred dollars per day, all penalties thus incurred to be offset, from time to time, against any payment or payments falling due under this contract: *Provided, however,* That such delay shall not have been caused by the act of the party of the second part, or by fire or water, or by any strike or standout of workmen employed in the construction of the hull or machinery of said vessel, or by other circumstances beyond the control of the parties of the first part; but such circumstances shall not be deemed to include delays in obtaining materials when such delays arise from causes other than those herein specified: *Provided, further,* That in case of such strike or standout, the contractors shall give immediate notice thereof to the Secretary of the Navy."

The time limited by the contract for the completion of the vessel expired December 22, 1887, but her completion was delayed, and the contractors did not succeed in making a successful trial of the vessel until August 19, 1889, on which date the board appointed to witness the trial found that the vessel had been completed in accordance with the requirements of the contract, with the exception of certain minor items of unfinished work which the Department deemed advisable to postpone until after the trial, and which work was subsequently completed in accordance with the plans and specifications. As this delay in the completion of the vessel, viz, from December 22, 1887, to August 19, 1889, did not arise from causes which would entitle the contractors to an extension of time under the seventh clause of the contract, per diem penalties were, under the provisions of the contract, incurred by the contractors for each and every day's delay (except Sundays) during said period, and accordingly deducted from payments subsequently made under the contract, as follows, viz:

During the first six months, one hundred and fifty-six days, at $25 per day	$3,900
During the next three months, seventy-nine days, at $50 per day	3,950
During the next three months, seventy-eight days, at $100 per day	7,800
During the remainder of the period referred to, two hundred and four days, at $200 per day	40,800
Total	56,450

The failure of the contractors to complete the vessel within the time limited therefor by the contract appears to have been due to the great difficulty experienced by them and the long delays to which they were subjected in obtaining materials which would pass the tests prescribed by the Department, owing to the inexperience at the time of the manufacturers in producing material that would meet the requirements of the Department, and to the fact that the period allowed by the contract for the performance of the work was, as the subsequent experience of the Department has demonstrated, wholly insufficient.

While these causes of failure on the part of the contractors would not, under the terms of the contract (clause 7) be considered by the Department as a basis for extending the time for completion of the vessel, the Department is of opinion, in view of the long delays to which the contractors were subjected in obtaining material, occasioned by unforeseen failures on the part of the manufacturers, and of the insufficiency of the time fixed by the contract for the completion of the vessel, that the remission of the penalties ($56,450) incurred by the Columbian Iron Works and Dry Dock Company on account of delay in the completion of the vessel under their contract might properly be authorized by Congress. * * *

The above-mentioned petition of the contractors is herewith returned as requested. A copy of the contract for the construction of the *Petrel* is also inclosed.

Very respectfully,

B. F. TRACY,
Secretary of the Navy.

Hon. J. P. DOLLIVER,
Committee on Naval Affairs, House of Representatives.

Your committee concurs in the recommendation of the Secretary that these penalties be remitted. The contractors entered into the contract with the Government in perfect good faith, having every reason to believe the material could be furnished by the American steel companies in time. It turned out to be an impossibility, because of the inexperience of these American industries.

The law required the material to be of American manufacture.

The Government suffered no loss whatever by the delay, it has received the full worth of its money in the vessel, which has been accepted as in every way satisfactory, and the committee being of the opinion that it is in the interest of the Government and sound public policy to encourage such new American ship-building firms as the Columbian Iron Works and Dry Dock Company, the bill is reported back and its passage recommended.

APPENDIX.

Contract for the construction of a steam gun-boat of about eight hundred and seventy tons displacement.

"GUN-BOAT No. 2."

Contract, of two parts, made and concluded this twenty-second day of December, A. D. 1886, between "The Columbian Iron Works and Dry-Dock Company of Baltimore City," a corporation created under the laws of the State of Maryland and doing business at Baltimore, in said State, represented by William T. Malster, president of said company, as principal, and ——— ——— as sureties, parties of the first part, and the United States, represented by William C. Whitney, Secretary of the Navy, party of the second part.

Whereas the act making appropriations for the naval service for the fiscal year ending June 30, 1886, approved March 3, 1885, made an appropriation for the construction of one light gun-boat of about eight hundred tons displacement, to be of the best and most modern design and having the highest attainable speed, the same to be constructed of steel, as provided in the act of August 5, 1882, hereinafter referred to, and authorized the construction of such vessel;

And whereas, after due advertisement, the proposal of the said principal party of the first part for the construction of the hull and machinery of such vessel, to wit, a steel gun-boat of about 870 tons displacement, which, for the purposes of this contract, is designated and known as "Gun-boat No. 2," has been duly accepted by the Secretary of the Navy;

And whereas the drawings and specifications required by the act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1883, and for other purposes," approved August 5, 1882, have been duly provided, adopted, and approved in accordance with the provisions of said act of March 3, 1885:

Now, therefore, this contract witnesseth that, in consideration of the premises and for and in consideration of the payments to be made as hereinafter provided for, the parties of the first part, for themselves, their successors, heirs, and assigns, and their and each of their personal and legal representatives, do hereby jointly and severally covenant and agree to and with the United States as follows, that is to say:

First. The parties of the first part will, at their own risk and expense, construct, in accordance with the provisions of the acts of Congress relating thereto, and in conformity with the aforesaid drawings and specifications, one steel gun-boat of about 870 tons displacement, with fittings as specified, of the following principal dimensions:

	Ft.	*In.*
Length between perpendiculars	175	0
Extreme breadth	31	0
Depth in hold from top of main-deck beams to top of floors	15	7

Such vessel to be constructed of steel, of domestic manufacture, and to be provided and fitted with machinery, engines, and boilers, also of domestic manufacture, complete in all their parts, appurtenances, and spare parts, and in all respects as described in the plans and specifications of "Gun-boat No. 2" and in the aforesaid

acts of Congress, and will deliver the same at the navy-yard, Norfolk, Virginia, to such person or persons as the Secretary of the Navy may direct to receive the same: it being, however, expressly understood and agreed that if any article or thing included in or covered by the plans and specifications aforesaid shall be found, during the prosecution of the work under this contract, to be not produced or manufactured in the United States, and if, after reasonable effort, it shall be found impracticable to obtain the same as an article of domestic manufacture, then and in such case provision shall be made, by or with the approval of the Secretary of the Navy, for such alteration in the plans and specifications, or for the adoption of such new or different device or plan, as may be found necessary in order to carry out and complete this contract, subject, as to increased or diminished compensation by reason of such change, to the conditions applicable to changes as expressed in the second clause of this contract.

Second. The construction of the hull and machinery and the fittings of the vessel herein contracted for shall conform in all respects to and with the drawings above referred to and the plans and specifications hereto annexed, which plans and specifications shall be deemed and taken as forming part of this contract, with the like operation and effect as if the same were incorporated therein. No omission in the drawings, plans, or specifications, of any detail, object, or provision necessary to carry this contract into full and complete effect, in accordance with the object and intent of the acts of Congress above-mentioned, shall operate to the disadvantage of the United States, but the same shall be satisfactorily supplied, performed, and observed by the parties of the first part, and all claims for extra compensation by reason of, or for or on account of, such extra performance, are hereby and in consideration of the premises expressly waived; and it is hereby further provided, and this contract is upon the express condition, that the drawings, plans, and specifications provided, adopted, and approved as hereinbefore mentioned, shall not be changed in any respect when the cost of such change shall, in the construction, exceed five hundred dollars, except upon the written order of the Secretary of the Navy; and if changes are thus made, the actual cost thereof and the damage caused thereby shall be ascertained, estimated, and determined by a board of naval officers, appointed by the Secretary of the Navy, and the parties of the first part shall be bound by the determination of said board, or a majority thereof, as to the amount of increased or diminished compensation which they, the said parties of the first part, shall be entitled to receive, if any, in consequence of such change or changes.

Third. The materials and workmanship used and applied in the construction of the hull and machinery and fittings of said vessel, in details and finish, shall be first class and of the very best quality, and shall, from the beginning to the end of the work, be subject to the inspection of the Secretary of the Navy; it being hereby expressly understood, covenanted, and agreed that the said Secretary may appoint suitable inspectors, to whom the contractors agree to furnish such samples, and such information as to the quality thereof and the manner of using the same, as may be required, and also any assistance they may require in determining the weight and quality of steel and other metals and of wood and other materials, either used or intended for use in the construction of said vessel or machinery; and the inspectors may, with the approval of the said Secretary, peremptorily reject any unfit material or forbid the use thereof. The inspectors shall, at all times during the progress of the work, have full access thereto, and the contractors shall furnish them with full facilities for the inspection and superintendence of the same.

Fourth. The steel to be used in the construction of the hull and boilers of the vessel to be built under this contract shall conform to the "tests of steel" embraced in the specifications annexed to and forming a part of this contract, and to the requirements of the acts of Congress relating thereto.

Fifth. It is hereby agreed by the contractors that such plans or drawings as it may be necessary to prepare during the progress of the work shall be at their expense and shall be submitted to the Navy Department for approval before the material is ordered or the work commenced.

Sixth. The parties of the first part, in consideration of the premises, hereby covenant and agree to hold and save the United States harmless from and against all and every demand or demands of any nature or kind for or on account of the adoption of any plan, model, design, or suggestion, or for or on account of the use of any patented invention, article, or appliance, which has been or may be adopted or used in or about the construction of the hull, machinery, and fittings of said vessel, or any part thereof, under this contract, and to protect and discharge the Government from all liability on account thereof by proper releases from patentees or otherwise, and to the satisfaction of the Secretary of the Navy, before final payment under this contract shall be made.

Seventh. The hull, machinery, and fittings of the vessel to be constructed under this contract shall be completed and ready for inspection for the purpose of delivery to the United States on or before the expiration of twelve months from the date of

this contract; but the lien of the United States upon said hull, machinery, and fittings respectively and collectively, for all moneys advanced on account thereof, shall commence with the first payment, and shall thereupon attach to so much of the work and materials as shall then have been performed and furnished, and shall in like manner attach from time to time as the work progresses and as further payments are made, and shall continue until the same shall have been properly discharged. In case the completion of the vessel and machinery shall be delayed beyond the said period of twelve months, penalties shall be imposed upon the parties of the first part for each and every day (excepting Sundays) in excess of said period, and until the vessel and machinery are complete and ready for inspection, as follows, viz: during the six months next succeeding the expiration of said period, twenty-five dollars per day; during the three months next succeeding the expiration of eighteen months from the date of this contract, fifty dollars per day; during the twenty-second, twenty-third, and twenty-fourth months from the date of this contract, one hundred dollars per day; and for each and every day (except Sundays) during which such completion shall be delayed beyond a period of two years from the date of this contract, two hundred dollars per day—all penalties thus incurred to be off-set, from time to time, against any payment or payments falling due under this contract: *provided, however*, that such delay shall not have been caused by the act of the party of the second part, or by fire or water, or by any strike or stand-out of workmen employed in the construction of the hull or machinery of said vessel, or by other circumstances beyond the control of the parties of the first part, but such circumstances shall not be deemed to include delays in obtaining materials when such delays arise from causes other than those herein specified: *provided further*, that, in case of such strike or stand-out, the contractors shall give immediate notice thereof to the Secretary of the Navy.

In case any question shall arise, under the provisions in this contract, concerning penalties, as to the liability of the contractors to the infliction of any such penalty, such question, with all the facts relating thereto, shall be submitted to the Secretary of the Navy for consideration, and his decision thereon shall be conclusive and binding upon all the parties to this contract.

Eighth. The hull, machinery, and fittings embraced by this contract, and all materials and appliances provided for and used or to be used in the construction thereof, shall be kept duly insured, which insurance shall be renewed and increased from time to time, by and at the expense of the parties of the first part, the loss, if any, to be stated in the policies as payable to the United States; the insurance to be effected in such manner and in such companies as shall be approved by the Secretary of the Navy and in an amount to be fixed, from time to time, by him, not exceeding the amount of advance payments made under this contract.

Ninth. The parties of the first part hereby further covenant and agree that the vessel constructed under this contract shall be sufficiently strong to carry the armament, equipment, coal, stores, and machinery prescribed by the Secretary of the Navy and indicated in the annexed plans and specifications; that the total weight of the said engines and machinery, boilers, appurtenances, and spare parts complete as specified. and including water in the surface-condensers and boilers, shall not exceed one hundred and thirty (130) tons, this weight to be determined from the certified records of the actual weight of the parts of the machinery as they are sent on board the vessel to be connected up; that if this weight be exceeded by five per cent. the contractors shall pay a penalty of one thousand dollars ($1,000) and also a penalty of one hundred dollars ($100) per ton for each ton of excess weight, over that stipulated, above the five per cent. excess, as ascertained and liquidated damages due the United States, to be deducted from any payment due or to become due under this contract; and that when the vessel is completed and ready for delivery as required by the plans and specifications, the same shall be subjected to a trial trip, under conditions prescribed or approved by the Secretary of the Navy, to test the hull and fittings and the machinery, including engines, boilers, and appurtenances, of the vessel, which shall be accepted only on fulfillment of, and subject to, the conditions and agreements hereinafter set forth:

(1) That the working of the machinery in all its parts shall be to the satisfaction of the Secretary of the Navy.

(2) That the collective indicated horse-power developed by the engines, under the conditions prescribed by the Secretary of the Navy, shall be one thousand one hundred (1,100), maintained successfully for four (4) consecutive hours; *provided, however*, that if such maximum be exceeded and successfully maintained for such period the contractors shall be entitled to receive, as additional compensation over and above the contract price of the vessel, the sum of one hundred dollars ($100) per indicated horse-power to the extent of such excess; but if the collective indicated horse-power successfully maintained as aforesaid shall fall below the said maximum, the said sum of one hundred dollars ($100) per indicated horse-power shall be charged against the contractors as a penalty in proportion to such decrease as between the said maximum

of one thousand one hundred (1,100) and a minimum of one thousand (1,000); such penalty to be deducted from any payments due or to become due under this contract; *provided further*, that if the power so developed and maintained as aforesaid shall fall below the said minimum of one thousand (1,000) the vessel shall not be accepted; *provided also*, the cost of the vessel hereby contracted for, exclusive of armament, being, by the aforesaid act of March 3, 1885, limited to two hundred and seventy-five thousand dollars ($275,000), by reason of which limitation it is not in the power of the party of the second part to incur or create, on the part of the United States and in and about the construction of said vessel, pecuniary obligations which, in the aggregate, shall exceed the aforesaid limit, that it is hereby further expressly understood, covenanted, and agreed that whenever the aggregate expenditures incurred and paid in the construction and equipment of said vessel, exclusive of armament, shall have reached the limit aforesaid, then and in such case any and all premiums which may have been earned by the contractors under the provisions of this contract, but which, when such limit is reached, shall remain unpaid, shall be subject to the future approval and action of Congress, and that in no event shall any obligation be deemed to have been created, nor shall any claim exist for or on account of such unpaid premiums until such claim shall have been approved by Congress.

(3) That the hull and fittings and the machinery, including engines, boilers, and appurtenances of the vessel, shall be found to be strong and well built and in strict conformity with the contract, drawings, plans, and specifications, and shall be approved by the Secretary of the Navy; *provided, however*, that in case the said trial shall not prove to be successful and satisfactory to the Secretary of the Navy, the expenses of such trial shall be borne by the contractors, and that, in case the results thereof, or of any further trial duly authorized, shall be successful, and satisfactory to the Secretary of the Navy; the expenses of such successful trial shall be paid by the party of the second part; it being expressly understood and agreed that the party of the second part shall not be responsible for the expenses of any unsuccessful trial of said vessel and machinery prior to an acceptance of the vessel under the tenth clause of this contract.

Tenth. If, at and upon the trial trip before mentioned, the foregoing conditions shall be fulfilled, the vessel shall be accepted, and the final payments made, including all reservations, subject, however, to a special reserve of five thousand dollars ($5,000) from and out of the reservations hereinafter provided for. This sum shall be held until the vessel has been finally tried, after being fully equipped, armed, and in all respects complete and ready for sea, under conditions prescribed or approved by the Secretary of the Navy; provided that such final trial shall take place within four months from and after the preliminary acceptance herein provided for.

If, upon such final trial, or within four months from the date of the preliminary acceptance, such final trial not having taken place, any weakness or defect in the hull or fittings, due to either defective workmanship or defective materials, shall appear, the same shall be repaired to the satisfaction of the Secretary of the Navy and at the expense of the contractors; or if, at any time during four months after the vessel shall have been accepted, the engines shall be found to be defective in their construction with respect to either workmanship or materials, or in case of the failure, breaking down, or deterioration, other than that due to fair wear and tear, of any part or parts of the machinery, engines, boilers, or appurtenances, the same shall be repaired, to the satisfaction of the Secretary of the Navy, at the expense of the contractors.

If the vessel be not in readiness for such final trial within the time above specified, through no fault or delay on the part of the contractors, and no defects in the hull or fittings, or in the machinery, including engines, boilers, and appurtenances, due to either defective workmanship or defective materials, shall have appeared, then the vessel shall be finally accepted and the special reserve aforesaid paid, subject, however, to deduction for such penalties, if any, as shall have been incurred under this contract.

Eleventh. It is hereby expressly understood, covenanted, and agreed, by and between the parties to these presents, as aforesaid, that whenever or wherever the detailed plans or drawings of the machinery herein contracted for, prepared by the contractors during the progress of the work and submitted, under the fifth clause of this contract, for approval, shall be disapproved, and other or different conditions than those required by the plans and specifications hereto annexed shall be insisted upon by the Secretary of the Navy, by reason whereof the weights, or any of them, stipulated in the ninth clause of this contract, shall be exceeded, then and in such case the contractors shall not be held responsible for such excess; *provided, however*, and the foregoing covenant is upon the express condition, that it shall be the duty of the contractors, immediately upon the discovery of any alleged defect in the plans and specifications of said machinery which, in their opinion, may result in the production of greater weights or in the development of less indicated horse-power than is herein provided for, to notify the Secretary of the Navy thereof, and to submit for his con-

sideration such modifications or changes as the contractors shall deem necessary for the accomplishment of the required results; and if the Secretary of the Navy shall consent to such modifications or changes, in whole or in part, and the contractors shall thereupon proceed in accordance therewith, they shall do so at their sole risk, and their responsibility for the results, so far as the same shall depend upon such modifications and changes, shall be absolute; but in case the Secretary of the Navy shall not consent to such modifications or changes, and if his orders shall be duly obeyed, and the plans and specifications approved by him and made a part of this contract shall be duly followed by the contractors, they, the contractors, shall be deemed and held to have, in such respects, fully and faithfully performed this contract.

Twelfth. It is further mutually understood, covenanted, and agreed, that in case of the failure or omission of the contractors, at any stage of the work prior to final completion, from any cause or causes other than those specified in the seventh clause of this contract, to go forward with the work and make satisfactory progress towards its completion within the prescribed period, it shall be optional with the said Secretary to declare this contract forfeited. The parties of the first part shall thereupon, and on notice thereof to them, or any one of them, in writing, be, and they do hereby, in consideration of the premises, jointly and severally, for themselves and their successors, heirs, and assigns, and their and each of their personal and legal representatives, acknowledge themselves to be justly indebted to the United States, as for liquidated and ascertained damages, in a sum equal to the aggregate amount of all advance payments theretofore made to them for or on account of the work to be done under this contract, and do further jointly and severally, as aforesaid, covenant and agree to refund the same on demand, or within sixty days thereafter, and that the United States shall and may hold, as collateral security for such refund, the vessel, machinery, materials, and fittings, or so much thereof as shall then have been constructed or furnished or as shall be on hand for the purposes of construction. The Secretary of the Navy shall thereupon cause to be taken and filed a full and complete statement and inventory of all work done or commenced in, upon, or about the hull, machinery, and fittings of said vessel, and of all materials on hand applicable thereto, and shall cause the same to be duly valued by a Board consisting of not less than five persons qualified by knowledge and experience for the discharge of their duties, to be appointed by the Secretary of the Navy, which Board shall proceed without unnecessary delay to examine such work and materials and ascertain and declare the fair market value thereof, including a reasonable and customary margin of profit upon so much of the work as shall have been, at the time such forfeiture is declared, satisfactorily performed; and upon such examination the parties of the first part may attend in person and by counsel and submit such evidence as the Board may deem proper.

Thirteenth. Upon receipt of the report and finding of said Board, and upon his approval thereof, the Secretary of the Navy may, in his discretion, proceed to complete the vessel, machinery, and fittings, in accordance with the contract, plans, and specifications, using for that purpose all suitable materials on hand and included in the inventory aforesaid; and the title to said vessel, machinery, and fittings, or so much thereof as shall have been completed, and to all such materials shall forthwith vest in the United States; and the parties of the first part do hereby, for themselves, their successors, heirs, and assigns, and their and each of their personal and legal representatives, jointly and severally covenant and agree to and with the United States that, on receiving notice of the intention of the Secretary of the Navy to proceed to the completion of the work, they will surrender the same and all materials on hand, together with the use of the yard or "plant," and all machinery, tools, and appliances appertaining thereto and theretofore used or necessarily to be used in and about the completion of the work.

Fourteenth. In case the Secretary of the Navy shall proceed, under the foregoing clause, to complete the work, such procedure shall be without unnecessary delay, and shall be at the risk and expense of the parties of the first part, who shall be chargeable with any increase in the cost of materials or labor incurred by reason of the failure of the contractors to perform the contract. Upon the final settlement of the liability of the parties of the first part an account shall be stated substantially as follows:

The contractors shall be charged—

1. With all advance payments.
2. With the extra cost, if any, of materials and labor, and all other extra expenses, if any, over and above the contract price, incurred in the completion of the work.

They shall then be credited with the value of the work done up to the time of suspension, and of the materials on hand, as ascertained by the Board and approved by the Secretary of the Navy under the provisions of the twelfth clause of this contract, and with such advance payments, if any, as may have been refunded. If a balance shall thereupon appear in favor of the contractors, the same shall be paid to and accepted by them in full discharge of all claims under this contract; but if a balance

shall appear in favor of the United States, the parties of the first part hereby covenant and agree as aforesaid to pay and discharge the same on demand.

Fifteenth. It is mutually understood, covenanted, and agreed, by and between the respective parties, that it shall not, under any circumstances, be obligatory upon the party of the second part to accept the vessel, or any part thereof, to be constructed under this contract, unless the same shall have been completed in strict conformity with this contract, and in accordance with the provisions of the acts of Congress relating thereto, and that this qualification shall be deemed and taken as applicable and applying to each and every clause, covenant, and condition, express or implied, in this contract contained.

Sixteenth. It is hereby mutually covenanted and agreed, and this contract is upon the express condition, that no Member of or Delegate to Congress, nor any officer of the United States, naval, military, or civil, is, or shall be, admitted to any share or part of this contract, or to any benefit to arise therefrom.

Seventeenth. The United States, in consideration of the premises, do hereby contract, promise, and engage to and with the parties of the first part as follows:

1. The contract price to be paid for the vessel, machinery, and fittings, to be constructed and furnished in accordance with this contract, shall be two hundred and forty-seven thousand dollars ($247,000).

2. Payments shall be made by the United States in ten equal installments, as the work progresses, with a reservation of ten per cent. from each installment.

3. No payment shall be made except upon bills, in triplicate, certified by the inspectors in such manner as shall be directed by the Secretary of the Navy, whose final approval of all bills thus certified shall be necessary before payment thereof.

4. All warrants for payments under this contract shall be made payable to the contractors or their order.

5. The last payment shall not be made until this contract shall have been fully performed by or on the part of the parties of the first part, and the vessel, machinery, and fittings shall have been accepted by the party of the second part, as in the tenth clause of this contract hereinbefore recited.

6. When all the conditions, covenants, and provisions of this contract shall have been performed and fulfilled by and on the part of the contractors, they shall be entitled, within ten days after the filing and acceptance of their claim, to receive the said special reserve or so much thereof as they may be entitled to, on the execution of a final release to the United States, in such form as shall be approved by the Secretary of the Navy, of all claims of any kind or description under or by virtue of this contract.

Eighteenth. If any doubts or disputes arise as to the meaning of anything in the drawings, plans, or specifications, or if any discrepancy appear between the drawings, plans, or specifications and this contract, the matter shall be at once referred to the Secretary of the Navy for determination, and the parties of the first part hereby bind themselves and their successors, heirs, and assigns, and their and each of their personal and legal representatives, to abide by his decision in the premises.

IN WITNESS WHEREOF the respective parties have hereunto set their hands and seals the day and year first above written.

WILLIAM T. MALSTER, [SEAL.]
President of said Company.
WILLIAM C. WHITNEY, [L. S.]
Secretary of the Navy.

William T. Malster, president of the Columbian Iron Works and Dry-Dock Company of Baltimore City, signed his name to this contract and affixed the seal of said company thereto in my presence at Baltimore, Maryland, this 22d day December, A. D. 1886.

ROB. LYON ROGERS,
U. S. Commissioner for Maryland.
WM. B. REMEY,
Judge-Advocate-General, as to Wm. C. Whitney, Secretary of the Navy.

O

51st Congress, 1st Session. | SENATE. | Report No. 1546.

IN THE SENATE OF THE UNITED STATES.

July 28, 1890.—Ordered to be printed.

Mr. Mitchell, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany S. Res. 12.]

The Committee on Post-Offices and Post-Roads, having had under consideration Senate Joint Resolution No. 12, to re-appropriate and apply the amount appropriated by the act of Congress approved March 3, 1887, to pay certain Southern mail contractors, beg leave to report the same adversely, and recommend its indefinite postponement.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1547.

IN THE SENATE OF THE UNITED STATES.

JULY 28, 1890.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany S. 1412.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 1412) for the relief of Patrick H. Jones, and Thomas L. James, late postmasters at New York City, having had the same under consideration, beg to report back the same adversely and recommend its indefinite postponement.

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1548.

IN THE SENATE OF THE UNITED STATES.

JULY 28, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 1826.]

The Committee on Pensions to which was referred the Senate bill granting pensions to Powell's Battalion Missouri Mounted Volunteers, have duly considered the same and submit the following report:

In the Fiftieth Congress a bill in the exact language of the present bill was reported from this committee to the Senate by Mr. DAVIS, accompanied by the following report:

Powell's Battalion of Missouri Mounted Volunteers was organized under the act of Congress of May 19, 1846, upon a requisition of the President upon the Governor of Missouri for a battalion of five companies of mounted volunteers in the year 1847. It has been called "Mounted Battalion Missouri Mexican War Volunteers," "Powell's Oregon Battalion Missouri Volunteers," and "Powell's Battalion Missouri Volunteers." It numbered about four hundred men, and seems to have been mustered for service during the Mexican war.

Early in September, 1847, the battalion moved from Leavenworth and marched to a point on the Missouri River known as Table Creek, near the present site of Nebraska City, Nebr., arriving there about December 15, 1847. It remained there during the winter of 1847-'48. The command broke camp April 24, 1848, and marched westward to a point on the Platte River, arriving there about the first of June, and established a post and fortification on the south bank of the Nebraska or Great Platte River, just below the head of Grand Island, called "Fort Childs," and remained there until October 23, 1848, when their term of service expired and they were relieved by the regular soldiers. They marched back to Leavenworth and were mustered out on November 9, 1848.

The Pension Office declines to place any of the members of said battalion on the pension-roll on the technical grounds that "they were not in Mexico, on the frontiers thereof, nor en route thereto." Your committee think that there is no just ground for any discrimination against the few survivors of this battalion, and therefore, to avoid applications to Congress for special relief, recommend the passage of the accompanying bill.

Said bill was passed by the Senate on the 25th of September, 1888, and was favorably reported in the House from the Committee on Pensions, on February 13, 1889, and no further action was had.

This bill directs the Secretary of the Interior to place on the pension-roll the names of all the honorably discharged surviving officers and enlisted men of Powell's Battalion, Missouri Mounted Volunteers, raised under the act of Congress of May 19, 1846, for service in the army of the United States in the establishment of military posts and for service on the frontier, during the war with Mexico, and the names of the surviving widows of such officers and enlisted men, subject to the limitations and regulations of the pension laws of the United States for pensioning the survivors of the Mexican war.

Some of the members of Powell's Battalion, after the passage of the law granting pensions to the Mexican war soldiers, applied to the Pension Office for pensions under that law, and the War Department was called upon by the Pension Office for a report as to the military history of said organization. The War Department reported that this battalion was organized under the act of Congress of May 19, 1846, which law authorized the raising of a regiment of regular troops, to be assigned to duty on what was known as the "Oregon Route." The Pension Office decided that having been organized under that law, they were not in Mexico, on the frontiers thereof, nor en route thereto, and consequently were not entitled to pensions, and must apply to Congress for special relief.

From the decision of the Commissioner of Pensions an appeal was taken to the Secretary of the Interior, and the Secretary affirmed the decision of the Commissioner of Pensions and rejected the claims. In correspondence with the War Department it was ascertaind that the War Department had made a mistake in its report to the Pension Office, and that this battalion was not organized under the law of May 19, 1846, but under the law of May 13, 1846, authorizing the organization of volunteers for the Mexican war, and that this battalion was organized just as all the other volunteers for the Mexican war were, and under the same law. The correctness of this is shown by the following letter to Senator Cockrell, from the War Department, and the accompanying statement, showing the dates of appointment of field officers, the times and places of enrollment, muster in and muster out of the field and staff and companies of Powell's battalion Missouri mounted volunteers, which are made a part of this report:

WAR DEPARTMENT,
Washington City, December 7, 1889.

SIR: In reply to your communication of the 3d instant, I am directed by the Secretary of War to inclose a statement showing the dates of appointment of field officers, the time and places of enrollment, muster in and muster out of the field and staff and companies of Powell's Battalion, Missouri Volunteers (Mexican war), and to inform you that your communication has been referred to the Adjutant-General of the Army for his action on so much of your request as calls for copies of orders, correspondence, etc., relating to this battalion.

Very respectfully,

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

Hon. F. M. COCKRELL,
U. S. SENATE, *Washington, D. C.*

Statement showing the dates of appointment of field officers, the times and places of enrollment, muster in and muster out of the field and staff and companies of Powell's Battalion, Missouri Volunteers.

	Enrolled during the war with Mexico.		Mustered in during the war with Mexico.		Mustered out.	
	When.	Where.	When.	Where.	When.	Where.
	1847.		1847.		1848.	
Lt. Col. Ludwell E. Powell.	Aug. 30	Ft. Leavenworth.	Aug. 30	Ft. Leavenworth.	Nov. 11	Ft. Leavenworth.
Field and staff	do	do	do	do	do	Do.
Company A	June 24	St. Louis	June 24	St. Louis	Nov. 6	Do.
Company B	July 1	St. Charles	July 2	Ft. Leavenworth.	Nov. 7	Do.
Company C	May 15 to July 2	Oregon and St. Joseph.	July 4		Nov. 8	Do.
Company D	May 26 to July 21	Savannah, Ft. Leavenworth, Weston, and N. Weston.	July 22	do	Nov. 9	Do.
Company E	June 20 to Aug. 6	St. Joseph, Ft. Leavenworth, & Weston.	Aug. 7	do	Nov. 10	Do.

REMARKS.—Rolls and returns show that the battalion left Fort Leavenworth some time prior to Nov. 30, 1847, exact date not stated. From Nov. 30, 1847, to April 30, 1848, battalion was stationed at Fort Kearney. May or June, 1848, moved to Fort Childs, where it remained until August 3, 1848; subsequently, exact date not shown, returning to Fort Leavenworth, where it was mustered out.

After the discovery of this mistake, an application was made in the pension claim of George H. Brockman, a member of said battalion, to the Pension Office for a reconsideration, and this application, with the papers accompanying it from the War Department, showing conclusively that a mistake had been made in regard to the law under which this battalion was organized, was transmitted by the Commissioner of Pensions to the Secretary of the Interior, and the Secretary adhered to his former decision. From the decision of the Assistant Secretary of the Interior, transmitted to the Commissioner of Pensions, the following extract was made:

While it is evident that both your office and this Department have been led into an error by the former reports of the War Department giving the service and the official record of the organization of this battalion, as to the act of Congress under which said battalion was organized, yet it is the opinion of the Department that said error is not material to the proper determination of the questions which were presented in the former departmental decision in this claim and does not affect the ground upon which said former action was taken.

It appears by the present report of the Adjutant-General correcting the former one, above alluded to, that said battalion was in fact organized and raised under and by virtue of the act of May 13, 1846, for service in the Mexican war, and the regiment of mounted rifles now known as the Third Cavalry, United States Army, was the organization which was in fact raised under and by virtue of the act of May 19, 1846, and that, instead of being assigned to the duties and service designated in said latter act, said regiment of mounted rifles was sent to and engaged in active service in the Mexican war, while Powell's Missouri battalion was assigned to duty of establishing the line of communication with Oregon and guarding the line of posts therein, as provided by the sixth section of said act of May 19, 1846. In other words, the designation and service of these two organizations, as provided by the acts under which they were respectively raised and organized, were exactly transposed, said regiment of mounted rifles being sent to Mexico and said battalion being ordered to do duty on the route to Oregon.

The Secretary of the Interior, therefore, adhered to the rejection of the claim. In December, 1889, Senator Cockrell applied to the present Commissioner of Pensions for a reconsideration of the action of the

Pension Office in rejecting the pension claim of Montgomery Geiger, a member of said battalion, and was advised under date of December 6, 1889, by Hon. Green B. Raum, Commissioner of Pensions, that as the action of his bureau in rejecting the claim had been affirmed by the Secretary of the Interior, no further action could be taken by his bureau.

It is therefore manifest that this battalion was organized under the same law and in the same manner and for the same purposes as all the other volunteer soldiers in the Mexican War, and the fact that the Government placed them in a service somewhat different from the service of the other volunteers should not militate against their rights. They were mustered into the service during the war with Mexico and were bound to obey the orders of the Government, and they obeyed them, and at the close of the war were regularly mustered out of the service, just as the other volunteers were, and they are clearly entitled to the same rights and privileges and should be placed upon an equality with all other volunteer soldiers of the Mexican War, under the general law granting pensions to them.

Your committee therefore report the bill back to the Senate and recommend that the words "nineteenth" and "for services in the Army of the United States, in the establishment of military posts, and for services on the frontier during the war with Mexico" be stricken out, and in lieu thereof the word "thirteenth" be inserted in lieu of "nineteenth," and in lieu of the words, "for services in the Army of the United States, in the establishment of military posts, and for services on the frontier during the war with Mexico," there be substituted the words, "for service during the war with Mexico," and as so amended recommend the passage of the bill.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1549.

IN THE SENATE OF THE UNITED STATES.

JULY 28, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3018.]

The Committee on Pensions, to whom was referred the bill (H. R. 3018) granting an increase of pension to J. Phil. Hurlbert, have examined the same and report:

The report on which this bill was passed by the House is concurred in, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3018) granting a pension to J. Phil. Hurlbert, submit the following report:

Claimant, J. Phil. Hurlbert, first sergeant Company C, Eighty-fourth Ohio Volunteer Infantry, enlisted at Warren, Ohio, May 29, 1862, and was appointed first lieutenant to recruit for the Eighty-fourth Regiment Ohio Volunteer Infantry, October 1, 1862, and reported to Colonel Case at Warren, Ohio. Colonel Case asked that claimant be detailed to aid him, and says:

"Lieutenant Hurlbert immediately reported to affiant, at Camp Taylor, for duty, and from that time, about September 23, to about November 23 labored, in season and out of season, to secure recruits for the new organization. * * * About that time Lieutenant Hurlbert was taken with a severe attack of rheumatism, brought on by constant exposure in the continuous inclement fall weather while laboring arduously to secure recruits."

The evidence is conclusive that claimant was sound physically when he enlisted, and that he contracted the disability as alleged in November, 1862, and that he has suffered constantly and severely therefrom ever since. He furnishes affidavits of surgeons who have treated him therefor from that date to the present time, from which we quote. He re-inlisted and was commissioned first lieutenant and adjutant of the One hundred and seventy-first Ohio Volunteer Infantry April 27, 1864, at Johnson's Island, and served till mustered out, August 20, 1864. While at Johnson's Island the regimental surgeon says:

"Said Hurlbert was taken with an attack of acute rheumatism pain in hips and knees, knees swollen, painful, and hot, considerable fever."

Dr. Rikard, who has treated him for eleven years since, says:

"Treated him for rheumatism involving joints, especially knee, ankles, and toes of both limbs, and hand and wrist of right arm, thus utterly disabling him for manual labor. This rheumatism, I deem, originated from exposure and camp life and is now (February, 1889) upon the increase and will be the cause of death."

Dr. N. F. Graham, of Washington, D. C., late surgeon Twelfth Ohio Infantry, says:

"September 5, 1889, claimant was confined to his bed suffering with a very severe attack of general rheumatism, which was complicated with both endo and peri carditis. For months I had no idea that he could recover. * * * He is yet a cripple, with stiffness of spine and serious organic disease of the heart. * * * He could not do an hour's manual labor."

Finally, the three medical pension examiners say, November 9, 1889:

"Head is drawn downward to chest and rotated on neck in consequence of the contraction of muscles, fixing the head beyond ability of claimant to control its movements; also suffers pain in muscles about shoulders, across the back, and down to præcordial region. There is slight hypertrophy of left ventricle, great rapidity of

heart's movement, etc. He is entitled to seventeen-eighteenths rating for rheumatism and resulting disease of heart."

The claim was rejected at the Pension Office for the sole reason that claimant first gave up to the disease while on recruiting service, and not enlisted in the regular service.

Your committee find the claimant was sound when he entered the Army; that he contracted the disease when actively engaged in the service of his country, and that he is totally disabled.

The bill is reported favorably with a recommendation that it do pass.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1550.

IN THE SENATE OF THE UNITED STATES.

JULY 28, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 4243.]

The Committee on Pensions, to whom was referred the bill (S. 4243) granting an increase of pension to Gurden L. Wright, have examined the same and report:

This is a bill to increase the pension of Gurden L. Wright from $36 to $50 per month.

The claimant was a member of Company K, Twenty-fourth Michigan Infantry. He was badly wounded in the left leg at Gettysburgh in July, 1863, and was again wounded in the same leg at Petersburgh, Va., in June, 1864, and on account of this wound his leg was amputated on the field. Inflammation ensued, the stump never properly healed, and he claims an increase of pension corresponding with the rate allowed for amputation at the hip joint. This was denied by the Pension Office on the ground that he is able to wear an artificial limb. The claimant admits that he sometimes wears it, but never without great suffering and inconvenience; and this is apparent from the fact, as stated in the affidavit of Dr. Shank, of Lansing, Mich., that there is a tender scar on the end of the stump, which blisters, and becomes greatly inflamed; and the doctor adds:

> In view of the bad condition of the stump, I have no hesitation in saying that the disability is equal to amputation at the hip-joint.

There is other testimony corroborating this statement to the entire satisfaction of the committee. The bill is amended by erasing the word "fifty" at the beginning of the fifth line and inserting "forty-five," and as so amended it is reported favorably with a recommendation that it do pass.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1551.

IN THE SENATE OF THE UNITED STATES.

JULY 29, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9945.]

The Committee on Pensions, to whom was referred the bill to increase the pension of Charles Barker, have examined the same and report:

The House report in this case is adopted and the bill reported with a favorable recommendation.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 9945) granting an increase of pension to Charles Barker, have considered the same and report:

The claimant was a private in Company I, First North Carolina Volunteers, and served from February 9, 1847, to August 7, 1848, in the war with Mexico.

He is now a pensioner at $8 per month on account of said service.

The evidence submitted in support of the bill to increase his pension shows that the claimant is seventy years old, and so much disabled by rheumatism, neuralgia, and general infirmity, consequent upon his age, that he can do no manual labor whatever.

It is further shown that he is a poor man with no income from any source except his said pension, and were it not for the small sum so received he would be dependent upon the public charity for support. He has no one living with him except his oldest daughter, who is herself a cripple.

In the opinion of your committee the facts as stated are sufficient to warrant the increase prayed for, and the bill is therefore reported back with the recommendation that it do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1552.

IN THE SENATE OF THE UNITED STATES.

July 29, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 3234.]

The Committee on Pensions, to whom was referred the bill granting a pension to Harriet B. Hamilton, have examined the same and report:

Mrs. Hamilton was the step-mother of the soldier. The soldier's father, Alfred Hamilton, drew pension as dependent parent from time of soldier's death in 1866 to his own death in 1888. Mrs. Hamilton married Alfred Hamilton in 1844, and had charge of the soldier during his youth, being in fact the only mother he knew. Precedents for the desired action are numerous. The bill is reported with a favorable recommendation.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1553.

IN THE SENATE OF THE UNITED STATES.

JULY 29, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 3995.]

The Committee on Pensions, to whom was referred the bill granting a pension to Myra E. Lakin, have examined the same and report:

The facts in this case are fully set forth in the appended affidavit of Mrs. Lakin. Precedents for action in such cases are numerous. The pension was allowed under the general law to the soldier's children, but owing to her remarriage, the widow is not eligible. It is plain that she has supported herself, brought up her child, and partially supported her second husband since the soldier's death. Her son is now a young man, just entering business life and not able to support both himself and his mother.

At no time since the soldier's death has Mrs. Lakin been dependent on or supported by any one except herself.

The bill is reported favorably with the recommendation that it do pass.

AFFIDAVIT.

I, Myra E. Lakin, of Claremont, in the county of Sullivan and State of New Hampshire, depose and say that I was married to John W. Lawrence, late of Company C of Fifth New Hampshire Volunteers, on the 21st day of July, 1866. He died September 18, 1867. He died leaving property in all amounting to less than $100. I had one child by him, William H. Lawrence. I had no property of my own, but by my personal labor I supported myself and child without assistance from friends or any one for nearly five years. I then understood that I was not entitled to any pension because he died of typhoid fever, and did not know, as was after found to be the fact, that the fever was induced by disease contracted in the army service, and on such account did not apply for pension until June, 1880. On account of the hardship in supporting myself and child, dress-making my only business, and in part to relieve my hardships I accepted the hand of and married Loami B. Lakin, January 3, 1872. By such marriage I got a house to live in and a man thirty-eight years older than I was to support in part, and after three years of married life with him he fell from a building and disabled himself for the rest of his life, and necessitated my special care of him and obliged me to support myself and do for my child all I could.

My last husband died November, 1889, of old age.

I am now dependent upon my personal earnings for support, though my son has at times done something to assist me. He is now in New York, and his business is less remunerative than heretofore, and I can not rely upon him for much assistance in the future.

It is certain that had I been fortunate enough to get the pension to which I was by law entitled before marriage with Mr. Lakin I should never have married the second time.

MYRA E. LAKIN.

STATE OF NEW HAMPSHIRE, *Sullivan, ss:*

Then personally appeared Myra E. Lakin and made oath that the foregoing statement by her subscribed was true.

Before me.

EDWARD D. BAKER,
Justice of the Peace.

MAY 7, 1890.

51st Congress, 1st Session. | SENATE. | Report No. 1554.

IN THE SENATE OF THE UNITED STATES.

July 29, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R 5521.]

The Committee on Pensions, to whom was referred the bill granting a pension to Miss Frances Thatcher, have examined the same and report:

The report made by the House committee is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, upon bill H. R. 5521 referred to them, beg leave to report:

At the second session of the Fiftieth Congress a bill (H. R. 12421) was introduced proposing to pension this claimant, and the same was reported favorably to the House by your committee in Report No. 3986.

So much of said report as is applicable to this bill is adopted by your committee, and the bill is returned with the recommendation that it do pass.

[House Report No. 3986, Fiftieth Congress, second session.]

The Committee on Pensions, to whom was referred the bill (H. R. 12421) granting a pension to Miss Frances Thatcher, have considered the same and report as follows:

Abijah Thatcher, the father of the claimant, was a corporal in Capt. Roswell Morgan's company, Connecticut State Militia, in 1813, and a sergeant in Capt. Charles Thomas's company of the same regiment in 1814, during the second war with Great Britain. He received a land warrant for his honorable services.

In the third session of the Forty-sixth Congress a bill was introduced for the relief of this claimant, but it was not considered in committee, and no report was made thereon. A petition accompanied said bill, signed by ninety-nine citizens of Norwich, Conn., and in it it is certified that the claimant is respectable and worthy, but very poor and needy, and that relief should be afforded her by Congress.

Samuel Case, one of the petitioners, certifies that he "was in the same company with the aforesaid Abijah Thatcher in the war of 1812 in both years of 1813 and 1814."

Other testimony filed before the committee shows that the claimant is in a destitute condition.

Mrs. Mary H. Bishop, a prominent citizen of Norwich, Conn., and a neighbor of the claimant, states as follows:

"Miss Thatcher is very, very needy, living alone, going upon crutches, and though a most deserving, is a most pitiable, object."

In a number of similar cases Congress has granted relief to the aged and destitute daughters of soldiers of the wars of the Revolution and of 1812, as well as to helpless children of deceased soldiers of later wars.

Believing this to be a deserving case, your committee recommend the passage of the bill

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51st Congress, 1st Session. | SENATE. | Report No. 1555.

IN THE SENATE OF THE UNITED STATES.

July 29, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2754.]

The Committee on Pensions, to whom was referred the bill granting a pension to Adele Jones, have examined the same and report:

The report made by the House Committee on Pensions is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2754) granting a pension to Adele Jones, have had the same under consideration and respectfully report as follows:

Adele Jones, on June 15, 1857, married Charles J. Jones, who willfully deserted her in June, 1859. More than three years after the desertion, September 1, 1862, she married Jeremiah J. Jones. It is claimed that she and the said Jeremiah J. Jones believed that the willful desertion of the first husband, together with the period of three years which lapsed after the desertion took place, entitled her to marry again. In fact, under the laws of Connecticut, in which State all three parties resided, she was entitled to divorce on the ground of desertion at the time of her second marriage, and divorce was granted on that ground to Adele Jones from Charles F. Jones on February 5, 1863. At the time of the granting of the divorce Jeremiah J. Jones was in the Army, having enlisted as a private in Company F, Twenty-first Connecticut Volunteers, on September 5, 1862. He served his term of enlistment with an honorable record, and after discharge lived with Adele Jones as her husband for a period of over twenty years. They were recognized as man and wife in the community in which they lived, and several children were born to them. During this long period it does not appear that the couple took any steps to recontract the marriage entered into before the divorce was granted to Adele Jones from her husband. It does not appear that they realized the legal necessity for remarriage, or that their legal relations as man and wife were ever questioned or disputed.

Jeremiah J. Jones was pensioned for malarial poisoning and chronic diarrhea contracted in service, and died on November 30, 1887, from blood poisoning and disease of the lungs, the results of disabilities contracted in the service. Adele Jones, a short time before the death of the soldier, became insane and was confined in an asylum, where she now is. As long as he lived the soldier contributed to the support of Adele Jones, continuing the support as far as he was able after she was taken to the asylum. After the death of the soldier application was made for pension to Adele Jones, as widow of Jeremiah J. Jones, by her conservator. The application was rejected on the ground that the marriage was not valid, having been contracted before (some five months) the divorce was granted to Adele Jones from her first husband.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1556.

IN THE SENATE OF THE UNITED STATES.

JULY 30, 1890.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany S. 925.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill S. 925, being a bill to extend the privileges of the free delivery of mails, having had the same under consideration, beg respectfully to report the same back with the following amendments, and as so amended recommend its passage:

Amend by striking out the word "three" in line 8 and inserting in lieu thereof the word "five."

Also amend by striking out the word "five" in line 9 and inserting in lieu thereof the word "seven."

In February last the Senate adopted a resolution calling upon the Postmaster-General for estimates as to the cost of the extension of this service on certain lines, of which the following is a copy:

Resolved, That the Postmaster-General be, and he is hereby, directed to transmit to the Senate an estimate of the increased cost required to extend the free-delivery system of the Post-Office Department to all cities and towns having not less than 3,000 inhabitants, or where the post-offices show a gross revenue of at least $5,000 for the past fiscal year; also a further estimate of the increased cost in case such system were extended to all cities and towns having not less than 5,000 inhabitants, or where the post-offices show a gross revenue for the last fiscal year of $7,000 or more.

In response to which the Postmaster-General transmitted to the Senate a letter of date February 15, 1890 (see Ex. Doc. No. 63, first session, Fifty-first Congress), of which the following is a copy:

OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., February 15, 1890.

SIR: I have the honor to acknowledge the receipt of the following resolution of the Senate:

"*Resolved*, That the Postmaster-General be, and he is hereby, directed to transmit to the Senate an estimate of the increased cost required to extend the free-delivery system of the Post-Office Department to all cities and towns having not less than 3,000 inhabitants, or where the post-offices show a gross revenue of at least $5,000 for the past fiscal year; also a further estimate of the increased cost in case such system were extended to all cities and towns having not less than 5,000 inhabitants, or where the post-offices show a gross revenue for the last fiscal year of $7,000 or more."

And in response thereto submit the information therein required, as follows:

(1) The number of places "having not less than 3,000 inhabitants or where the post-offices show a gross revenue of at least $5,000 for the past fiscal year" is 664.

(2) The number of places "having not less than 5,000 inhabitants or where the post-offices show a gross revenue for the last fiscal year of $7,000 or more" is 294.

The population has been ascertained from the last general census, taken by authority of State or United States law. The above figures will be largely increased by the additional revenue at the close of the fiscal year, June 30, 1890, and by the national census to be taken this year.

It is estimated that to extend the free-delivery system to all of the places and offices described in the first section of the resolution, 664 in number, the cost would be about as follows. (As the actual population is now much in excess of that shown by the census, probably an average of three carriers to each place will be necessary:)

Estimate.

664 offices, 1,992 carriers, at $600	$1,195,200
Incidental expenses	121,840
	1,317,040

Under the second section of the resolution the places and offices described, 294 in number, being the extension recommended in the Postmaster-General's report, the cost would be about as follows:

294 offices, 1,029 carriers (average of 3½ to each office), at $600	$617,400
Incidental expenses	61,825
	679,225

The above figures represent the estimated cost for the next fiscal year provided all the offices should be established to commence July 1, 1890, so far as the pay of carriers is concerned. The incidental expenses would be about the same at whatever period of the year the service might commence.

Taking into consideration the number of offices which would apply, or be ready for the service and have the other requirements in addition to population, or revenue, it is probable that an appropriation of $600,000 under the first estimate and $350,000 under the second would be amply sufficient for the next fiscal year.

The pay of carriers given is the compensation for the first year. After that period their salaries will be increased $250 each by promotion, as required by law.

JNO. WANAMAKER,
Postmaster-General.

Hon. LEVI P. MORTON,
President of the United States Senate.

Under existing law all cities having a population of 10,000 persons, or which showed a gross revenue of $10,000 for the preceding fiscal year, are entitled to the privileges of free delivery. This bill proposes to extend these privileges to all cities and towns having a population of not less than 5,000, or where the post-office has shown a gross revenue of $7,000 or more for the previous fiscal year. From the letter of the Postmaster-General it will be seen that the number of places having not less than 5,000 inhabitants, or where the post-office for the last fiscal year showed a gross revenue of $7,000 or more, is 294. This is according to the last general census taken by authority of State or United States law. The number will be, doubtless, largely increased under the new census, as also the revenue, as shown at the close of the fiscal year just ended.

The estimated cost for the present fiscal year, provided all the offices had been established to commence July 1, is $679,225. It is suggested, however, that an appropriation of $350,000 would be amply sufficient for the present fiscal year, provided this bill should be enacted into law at an early date.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1557.

IN THE SENATE OF THE UNITED STATES.

JULY 31, 1890.—Ordered to be printed.

Mr. TELLER, from the Committee on Mines and Mining, submitted the following

REPORT:

[To accompany S. 2599.]

The Committee on Mines and Mining, to whom was referred the bill (S. 2599) to submit to the Court of Claims, for adjudication, the title of William McGarrahan to the mineral interests of the rancho "Panoche Grande" tract of land in the State of California, and for other purposes, submit the following report:

The subject of this bill has been before Congress for a number of years, and has been favorably passed upon by committees of both houses several different times. A bill similar to this bill was reported favorably to the Senate in both the Forty-ninth and Fiftieth Congresses. The report of the Senate committee to the Forty-ninth Congress contains a full history of the case, and is here inserted for the information of the Senate. It is as follows:

[Senate Report No. 1583, Forty-ninth Congress, first session.]

The Committee on Mines and Mining, to whom was referred the bill (S. 2714) for the relief of William McGarrahan, and for the adjustment of his rights in the New Idria quicksilver mines of California, submit the following report:

The subject-matter of this bill has been before Congress at various sessions thereof for a number of years. The report submitted by the House Committee on Mines and Mining contains a full history of the case, and your committee therefore insert it as a part of their report:

The Committee on Mines and Mining, to whom was referred the bill (H. R. 3918) for the relief of William McGarrahan, and for the adjustment of his rights in the New Idria quicksilver mines of California, submit the following report:

The controversy with respect to the title to the tract of land mentioned in this bill covers a period of more than thirty years. Although nominally carried on between William McGarrahan on the one side and the United States on the other, the real contestant of McGarrahan's title has been the New Idria Mining Company. That company got possession of the New Idria quicksilver mine about the time McGarrahan purchased the tract of land, and has held possession ever since. The main question to be decided is whether Vincente P. Gomez, under whom McGarrahan claims, had such a title to the land as was protected by treaty with Mexico, commonly known as the treaty of Guadalupe Hidalgo. If he did, then the faith of the Government is pledged to its protection.

Your committee reports a bill and recommends its passage as a substitute for the bill referred to it, which authorizes and empowers the Court of Claims to hear and determine the question of title, and other questions incident thereto, with right of appeal to the United States Supreme Court.

The claim first came before Congress during the first session of the Fortieth Congress, and was referred by the House of Representatives to the Committee on the Judiciary. Mr. James F. Wilson, the chairman of the committee, during the second session of that Congress, submitted a report, which seemed to give an impartial statement of the facts and of prominent proceedings in the matter, as follows:

[Report No. 33, Fortieth Congress, second session.]

Mr. WILSON, from the Committee on the Judiciary, made the following report:

The Committee on the Judiciary, to whom was referred a bill for the relief of William McGarrahan, respectfully submit the following report:

The history of this case is composed of such a multitude of circumstances, spread over a period extending from the year 1844 to the present time, that to give it in detail would be to present a report so voluminous as to defeat the very object contemplated by the House in submitting it to the committee—that of information to its members.

It has, therefore, been deemed advisable to exhibit leading and controlling facts rather than minute and unimportant particulars.

The effort has been to give the present paper a synoptical rather than argumental character, as it is believed a plain but abbreviated narrative will be sufficient to satisfy all inquirers that the bill herewith reported should pass.

An impartial statement of the facts and of prominent proceedings is, in the judgment of the committee, all that is needed to show that Mr. McGarrahan is entitled to the relief he seeks, and to the land in question, as described in his original memorial, presented to the House during the Thirty-ninth Congress.

In the year 1844 Manuel Micheltorena, the then governor of Upper California, in accordance with a Mexican custom to confer lands upon deserving officials and citizens, granted to Vincent P. Gomez a tract of land then, it would seem, considered almost valueless, and situate in the present counties of Fresno and Monterey, State of California. The property was then and is now known as "Panoche Grande Rancho."

The making of this grant has been denied, and this denial constitutes the principal ground from which has sprung the prolonged and exhausting litigation in the case, extending over a period of more than thirteen years.

The proof of the existence of the grant is satisfactory. It is found mainly in the following facts:

I. The deposition of José Castro, who filled the office of political chief of California, and was also prefect and commanding general, which states that Gomez, with whom he was well acquainted, desired him (Castro) to inform him (Gomez) of a suitable place to petition for or secure, and that he recommended the Panoche Grande.

II. The petition of Gomez to Governor Micheltorena, March 13, 1844, requesting a grant of the rancho.

III. A marginal entry made by the governor, March 14, 1844, on the petition of Gomez, that the proper secretary should cause the necessary investigations to be made and make report.

IV. A declaration of the same date, by Manuel Jimino, the secretary, that the petition of Gomez had been transmitted to the first justice of San Juan, in order that he should report what would be just in the matter.

V. The report of the justice, dated March 20, 1844, stating that the land was vacant, and that there was no reason why the same should not be granted.

VI. A map of the land, filed in pursuance of the justice's report.

VII. The affidavit of Valentine Gajiola, employed in the Presidial Company of Monterey in 1848, showing that Gomez applied to him to make a map of the ranche; exhibited to him the title paper duly executed, and that he made the map as desired.

VIII. The deposition of José Abrigo, the head of the commissary department, and resident in Monterey, proving that Gomez was a clerk in his office, and that, in 1845, he (Gomez) showed him a title to the land named, together with a map of the property; that the papers were signed by the governor and secretary, and that he was well acquainted with the signatures of these officers, having often seen them write; that the archives in which these papers were passed into the possession of the American Army July 7, 1846.

IX. The testimony of Abrigo, Dr. James L. Ord, a surgeon in the United States Army, and others, proving the destruction of the archives in Monterey, and the fact that such destruction is generally admitted.

X. The deposition of Oscar De Grandé Barque, stating that Gomez, in 1845, showed him title papers for the ranche, and proposed a sale of the land to him.

XI. The affidavit of J. Marno Bonilla, secretary of the superior tribunal of justice in Monterey, stating that Gomez, in 1844, applied to him for stamped paper, to be used

in procuring a title to lands; and that, in 1845, he saw memoranda of grants of land, among which was that of Panoche Grande to Gomez.

XII. The affidavit of Matias Moreno, secretary of state of Upper California, stating that, in 1846, he knew Gomez had obtained a grant for Panoche Grande, and that he saw the grant.

XIII. The affidavits of Maricio Gonzales, José Fernandez, Gabriel de la Torre, Joaquin S. Escamilla, and others, tending to prove the existence of the grant.

XIV. The statement of E. L. Goold, esq., before the Judiciary Committee, that he believed the petition of Gomez was a genuine document, and that he based his opinion on his knowledge of the facts and circumstances connected with the case of said Gomez against the United States, which involved the validity of the grant upon which this case is based. Mr. Goold was of counsel in said case in opposition to the grant, and appeared as a witness before the committee on behalf of the opposing parties.

XV. The grant by Governor Micheltorena, in the year 1844, to Don Julian Ursua, of the tract known as the rancho "La Panoche de San Juan and Los Carrisalitos," wherein the tract is described as being bounded on the south by the mine of "Los Aguilas" and "La Panoche Grande."

XVI. Statement of Henry D. Cooke, esq., that when he was in California, in the years 1847-'48-'49, it was common report that Gomez had received a grant of a rancho near San Juan from the Mexican Government.

XVII. In 1845 the board of land commissioners, at the hearing on the evidence, as required by the laws of the United States, decided that Gomez had given satisfactory proof of the existence and loss of the grant.

1. In the treaty of Guadalupe Hidalgo, entered into between the United States and Mexico February 2, 1848, it was provided that property of every kind belonging to Mexicans should be inviolably respected, and that the United States should pass such laws as would give effect to the different stipulations of the treaty, and always thereafter regularly enforce them. This feature was introduced to secure all landed and other interests that might in any way be affected by a change of jurisdiction over the territory embraced in the treaty (Stats. at Large, vol. 9, pp. 229-231).

2. The law contemplated was passed March 3, 1851 (United States Statutes at Large, vol. 9, p. 631), creating a board of land commissioners, and declaring, among other things, "that each and every person claiming lands in California, by virtue of any right or title derived from the Spanish or Mexican Government, shall present the same to the said commissioners, when sitting as a board, together with such documentary evidence and testimony of witnesses as the said claimant relies upon in support of such claim; and it shall be the duty of the commissioners, when the case is ready for hearing, to proceed promptly to examine the same upon such evidence, and upon the evidence produced in behalf of the United States, and to decide upon the validity of the said claim, and within thirty days after the said decision is rendered to certify the same with the reasons on which it is founded, to the district attorney of the United States in and for the district in which such decision shall be rendered" (sec. 8).

3. February 9, 1853, Gomez, in accordance with the provision of the act of March 3, 1851, presented his petition to the Board of Land Commissioners, praying a confirmation of his claim to the rancho Panoche Grande.

4. The board, having fully heard the evidence of the grant, decided that the claimant had given satisfactory proof of the existence and loss of the grant, but had failed entirely to offer any proof whatever going to show that he ever occupied, improved, or cultivated any part of the land, or that any one ever did for him, or that he ever saw the land; and on the ground of non-occupancy decided the grant invalid.

5. In the case of Frémont v. The United States (17 Howard, 542), decided at December term, 1854, the Supreme Court of the United States held that, in the case of Mexican land grants, omission to take possession of the land did not of itself forfeit the right or grant. Had this determination preceded the action of the Board of Land Commissioners, the grant to Gomez would certainly have been pronounced valid, as the board decided against the grant on the ground that the grantee had not entered upon and possessed himself of the land granted.

6. The decision of the Board of Land Commissioners made an appeal necessary, which was accordingly taken by Gomez, and June 5, 1857, the district court for the southern district of California confirmed his claim, and a decree to that effect was pronounced. But through what is claimed to have been a clerical mistake, and which the party asserts was unobserved for some months, the decree was for three leagues of land instead of four, as claimed, and as proved by the deposition of José Abrigo, used before the Board of Land Commissioners, and in the court, to have been comprised in the grant, and was unsigned by the judge.

7. Thus, as Gomez, his counsel, and all interested, might well have supposed, the question of title was settled, subject, of course, to the right of appeal. The records of the district court presenting Gomez as owner of the rancho in accordance with the finding of the Board of Land Commissioners, the decree of the said district court, and

the decision of the highest court in the Frémont case, Mr. McGarrahan, December 22, 1857, bought the property from Gomez in good faith, and for a valuable consideration.

8. The alleged error in the quantity of land stated in the decree of June 5, 1857, being discovered, an application was made to the court to correct it, whereupon, February 8, 1858, an amended decree was entered *nunc pro tunc* (that is, as of June 5, 1857), covering the four leagues, and duly signed.

9. About the time Mr. McGarrahan purchased from Gomez some persons, having prospected the land, discovered mineral deposits (a fact unknown to Mr. McGarrahan when he purchased), and, finding it had been sold by Gomez, they, as "squatters," took possession of and held it, as they still hold it, either in person or by assignees, cognizant of the facts, and without title.

10. March 15, 1858, the United States appealed from the decree of the district court, as it seems was their practice to do in all cases adjudicated against them, and on July 8, 1858, thirteen months after the final decree of confirmation, a motion was made by special counsel of the United States in the case, as it seems, without notice to the claimant, to have the decree opened.

11. Mr. McGarrahan, having been advised that the appeal to the Supreme Court had been taken by the Government, without examination as to its merits, in accordance with the uniform practice, made application through counsel to Hon. Jeremiah S. Black, the then Attorney-General (a certified transcript of the case being presented to him), to have him examine the case and determine whether he would persist in the appeal.

12. After a full argument before the Attorney-General, that officer directed that the appeal should be docketed and dismissed; and on January 31, 1859, it was so entered upon the books of his office and upon the records of the Supreme Court. Whereupon, in March, 1859, the Supreme Court issued its mandate, which ordered and decreed the docketing and dismissal of the appeal entered in the Supreme Court, and commanded that "such proceedings be had in said case as, according to right and justice and the laws of the United States, ought to be had."

13. The said mandate was filed in the district court May 4, 1859, whereupon the court ordered, adjudged, and decreed that the said mandate should be carried into effect, and that the said Gomez proceed under the decree of the court as under a final decree.

The effect of this was to perfect the title to said rancho in Mr. McGarrahan, as the grantee of Mr. Gomez.

At this stage of the case the most vigilant lawyer consulted by client, and required to examine records, could have given no other opinion upon the state of the records than that a fee-simple interest in the rancho was vested in Mr. McGarrahan.

From this time the parties occupying the property, without title or rightful claim, resorted to divers expedients to defeat McGarrahan's title; accordingly the "squatters'" interest, so called, which vested in the New Idra Mining Company, appealed to controlling officers of the Government. This is shown by the following facts:

1. A consultation between Mr. E. L. Goold, counsel for the "squatters" upon the property alluded to, with the Attorney-General, and immediately thereafter that officer making a motion in the Supreme Court to recall the mandate before spoken of on the ground of fraud and want of jurisdiction.

2. The alleged fraud was declared to consist in the fact that a conveyance of an undivided half interest in the property had been made by Gomez to Pacificus Ord, then representing the United States as district attorney, and that he had consented to the propriety of the original decree of June 5, 1857.

3. It is shown that Mr. Ord, after his appointment to the office he held, not only revealed to the Government the fact that he was interested in the claim, but requested the Government to emply other counsel to attend to its interests.

4. This the Government did not do; the consequence of which was that Mr. Ord, at the time of the original decree, having no evidence militating against the validity of the grant, acquiesced in its confirmation; and, so far as this committee can discover, the representation then made by Mr. Ord was in accordance with facts.

5. At this point in the proceedings, it appeared that some influence, unknown to the committee, had caused the file-marks and indorsements on the final order of the district court, made in obedience to the mandate of the Supreme Court, to be erased from the record, as well as the filing of the mandate itself. This seems to have been done on the 18th of January, 1860, more than eight months after the order had been filed. It also appears that certain entries in the books of the Attorney-General's Office respecting the original appeal in this case, and the action of the Government in other appeals, embraced in the same order, were not known to the court or to McGarrahan's counsel in time for them to avail themselves of the benefits thereof, on the hearing of the case in the Supreme Court, on motion by the Attorney-General to revoke the mandate. It will be remembered that it was upon the conclusive evidence of his order that the Supreme Court had directed the proper entry to be made upon their record and that their mandate was issued.

6. This failure to disclose the facts to the court, by the Government, undoubtedly had much to do in securing the order of the Supreme Court revoking their mandate of 1859, and which order was strangely withheld until June, 1862, when it was filed by the present claimant for the purpose of again lodging jurisdiction of the case in the court below.

7. But, in the mean time (March 21, 1861), the district court annulled its original decree. This extraordinary action on the part of the court seems to have been taken without notice, either to the claimant or his known counsel, and in the absence of both.

8. As soon as this condition of things was ascertained, an application was made to the court to restore the decree, and, upon full hearing, the order, as requested, was made on the 4th August, 1862.

9. Thus matters rested until the 25th August, 1862, when the then district attorney, contrary to express stipulations, entered into between himself and the counsel for the claimant, in their absence, and without notice, obtained an order of appeal to the Supreme Court.

10. The impropriety of this proceeding is made apparent for the reason that, in order to give the Supreme Court jurisdiction, a citation should have been first issued, signed by the judges, served on the claimant, and from return made, with proof of service.

11. The law is very clear upon this point; the acts of 1789 and 1803, which regulate appeals (the appeal not having been taken in open court at the June term in 1857, when the original decree was pronounced, nor at the December term in 1857, when the decree was entered *nunc pro tunc*, or, in other words, within five years, as directed by the statutes), demanded a notice to the opposite party, and the proceeding was therefore clearly wrong. The court, upon a full hearing, reached this determination, and accordingly decided, December 4, 1862, that the appeal allowed August 25, 1862, be vacated and set aside, and that an appeal on behalf of the United States to the Supreme Court be denied.

Here, for the second time, the record evidenced a perfect title in the claimant.

It having been twice judicially determined by the action of the courts that Mr. McGarrahan was the legal owner of the Rancho Panoche Grande, the aggressors upon his rights resorted to a new line of action.

1. As seen, after nine years of litigation, Mr. McGarrahan, the present claimant, succeeded in acquiring two distinct confirmations of his title. It was then, in accordance with the act of Congress of June, 1862, he applied to the United States surveyor-general of California for a survey of the said tract of land, and which officer caused the survey to be made and approved September 11, 1862. This survey was transmitted immediately thereafter to the General Land Office, and a patent for the property was demanded.

2. Here, again, he was confronted by the New Idria Mining Company, before referred to. The Secretary of the Interior at that time (Hon. Caleb B. Smith), after argument in the case, ordered the patent to issue.

Thus, again, for the third time, the title to the Panoche Grande was found to be in Mr. McGarrahan. Some unknown cause delayed the execution of this order, and the patent was not issued. This neglect, or refusal, was persisted in throughout the remainder of Mr. Secretary Smith's term. The matter was then brought to the notice of Mr. Usher, the new Secretary, before whom it was again argued, and by whom a patent was directed to be issued. Neither the order of Mr. Smith nor Mr. Usher was obeyed, for some reason not yet divulged or ascertained.

For the fourth time, the title of Gomez and his grantee was decided to be good and available in law. A request was then made by the claimant of President Lincoln that he would make an examination of the case, and determine it upon its merits. This he consented to do. Printed briefs were laid before him; and, upon full consideration of all the facts and circumstances, he directed the Secretary of the Interior to cause a patent to be issued to Mr. McGarrahan. And thus, for the fifth time, Mr. McGarrahan was declared to be entitled to the property or rancho, and that neither the United States nor any other person had lawful claim to the same.

In accordance with this order of the President of the United States to the Secretary of the Interior, a patent was actually made out; but, for reasons not fully explained, never delivered to him for signature.

To recapitulate:

1. The proof of a legal grant from the Mexican Government to Gomez and the transfer of title to McGarrahan are clearly and indisputably shown.

2. The district court of the United States for the southern district of California confirmed the grant.

3. The Attorney-General of the United States declared the title to the lands to be in Mr. McGarrahan, and caused an entry to that effect to be made on the books of his office and in the Supreme Court.

4. Hon. Caleb B. Smith, Secretary of the Interior, after examination and consideration of the case, ordered a patent to be issued to Mr. McGarrahan.

5. Mr. Usher, the successor in office of Mr. Smith, similarly decided.

6. Mr. Lincoln, after inquiry, decided the grant to be genuine, and that a patent should be issued to Mr. McGarrahan.

From the time when the district court pronounced its decree of confirmation (June 5, 1857) and the President's action on the case (in the fall of 1863), it will be observed, over six years had elapsed, and, in consequence of the lapse of time, an appeal could not be had according to law, unless something should appear to avoid the limitation.

In December, 1863, a paper, purporting to be a transcript of proceedings as they appeared on the records of the district court, was prepared in the Attorney-General's office in Washington, D. C., forwarded to the district attorney in California, certified by him out of his district, without comparison with the record and merely from memory, and from which transcript were omitted material parts of the record, and returned to Washington.

Upon the transcript thus made up the case was again brought before the Supreme Court, which being discovered by the claimant, a motion was made to strike off the appeal, which was refused, although it, as it seems to the committee, was out of time, and the transcript had been made up without reference to the actual records of the district court.

Notwithstanding the Supreme Court refused to strike off the appeal taken in the manner indicated, a new transcript was obtained, 1865, from the clerk of the district court, and filed at December term, 1865, eight years and a half after the decree of the district court confirming the title was first pronounced, and more than three years after the period had elapsed within which the law allowed an appeal to be taken in the case, unless some exception takes it out of the limitation. Upon this appeal the Supreme Court, in March, 1866, decided the case against the claimant, and thus matters now stand.

The committee have bestowed a great deal of time and labor upon this case in order to arrive at its real facts and merits. The claimant and the parties resisting his claim have been heard patiently and at great length.

In presenting the conclusion at which the committee have arrived they do not wish to be understood as undertaking to review and reverse the action of the Supreme Court relative to the case. Under and by virtue of the right of petition the claimant has presented his case to Congress, and the House of Representatives directed this committee to inquire into the grounds of his complaint. This has been done. Many facts have been presented to the committee which were not placed before the court. Additional evidence has been submitted and circumstances disclosed which have induced your committee to conclude that the relief prayed for by Mr. McGarrahan ought to be extended to him; and this may very readily be done. The title to the land claimed, and which he asks that he may be allowed to purchase, is now vested in the Government of the United States, and it is merely a question whether he shall be permitted to secure that which, in the judgment of your committee, he acquired title to by virtue of the Mexican grant aforesaid, or it shall fall into the hands of a corporation known as the New Idria Mining Company, which has been resisting his claim for years and paying the expenses of the efforts of said company out of the proceeds of the mines, the title to which rests in the United States.

It is clear that McGarrahan purchased the property in good faith, and for a valuable consideration, when it was regarded as of but little value. His interests have been attacked and his title resisted nominally by the United States, but really by the New Idria Mining Company. The name of the United States, their officers and money, have been used to resist his claim, and all to the end that this property, valable as it now undoubtedly is, may pass into the hands of parties who are wholly unknown to the records of the proceedings had in the courts of the United States respecting the title to the land in question through all its years of transit from the board of land commissioners to and through the Supreme Court of the United States.

The company aforesaid placed before the committee a memorial, in which the case is stated as follows:

"The real parties who contested the grant were your memorialists, for against them only were the efforts of the owners of the 'Panoche Grande rancho' directed. For the New Idria mines, and for the fruits of the labor of those who have developed them, the owners of the 'Panoche Grande' are now seeking Congressional interference in their behalf. It may well be doubted whether the 'Panoche Grande' would ever have been heard of in the district court of the United States or in Congress but for the hope of robbing your memorialists of the fruits of their years of labor and vast expenditures of money."

This extract shows that the United States have no interest as between these parties beyond that of preserving its faith as pledged in the treaty made between this Government and that of Mexico. And as to the allegation of robbery, etc., made by said company, it may be remarked that one of its stockholders, of large interest, testified

before the committee that after paying all of the expenses of said company, including every outlay, a balance would be left in its treasury on account stated.

The precedents are numerous where the Congress has afforded redress in cases of an analogous character. The following are referred to:

I. The Soscol act, 12 U. S. Stats., p. 808.
II. The Bolsa de Jomales act, 13 U. S. Stats., p. 136.
III. Ex-Mission San José act, 13 U. S. Stats., p. 534.
IV. Laguna de Santos Calle act, 13 U. S. Stats., p. 372.
V. Baron de Bastrop act, 9 U. S. Stats., p. 597.

In addition to which we have the act of June 21, 1860, and the act of March 1, 1861.

In view of all the facts developed in the case, and believing that justice and equity demand that the relief prayed for by the claimant be extended to him, the committee recommend the passage of the bill herewith reported.

[Report No. 5, Fortieth Congress, first session.]

IN THE HOUSE OF REPRESENTATIVES.

MARCH 18, 1867.—Read twice and referred to the Committee on the Judiciary.

MARCH 26, 1867.—Reported from the said committee without amendment, ordered to be printed, and recommitted to the said committee.

Mr. JAMES T. WILSON, on leave, introduced the following bill:

A BILL for the relief of William McGarrahan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the tract of land known as the Panoche Grande rancho, in the State of California, granted by Governor Manuel Micheltorena to Vicente P. Gomez, in the year eighteen hundred and forty-four, and by said Gomez conveyed to William McGarrahan on the twenty-second day of December, eighteen hundred and fifty-seven, surveyed by the United States surveyor-general for the State of California, and approved by him on the eleventh day of September, in the year eighteen hundred and sixty-two, and which said survey is now on file in the General Land Office, be, and the same is, in all respects, hereby fully confirmed to said William McGarrahan upon this condition, however, that the said McGarrahan shall, within twelve months after the passage of this act, pay into the Treasury of the United States the sum of one dollar and twenty-five cents per acre for the lands embraced within the said survey.

SEC. 2. *And be it further enacted,* That upon the payment of the said sum of money to the Treasurer of the United States by said McGarrahan the said Treasurer shall give a certificate therefor, and upon the presentation thereof to the Commissioner of the General-Land Office a patent shall be issued to said William McGarrahan for said lands.

The bill reported by that committee was passed by the House of Representatives on the 15th day of May, 1868, after debate. (See Congressional Globe, vol. 97, p. 2479.)

It will be observed that the bill as it passed the House confirmed the grant to William McGarrahan as surveyed by the United States surveyor-general for the State of California.

The bill when it reached the Senate was referred to the Committee on Private Land Claims. The committee reported adversely to the bill, and on the 25th day of July, 1868, the last evening of the session, the bill was called up and indefinitely postponed. At the next session, to wit, on the 20th day of January, 1869, Mr. Morton called up the bill for reference, which motion prevailed by a vote of 27 yeas to 18 nays, after a discussion which consumed a portion of several days, during which the circumstances under which the bill had been indefinitely postponed were fully brought to the attention of the Senate. The bill was recommitted to the Committee on Private Land Claims. It was reported back to the Senate on the 24th day of February, 1869, two of the committee being favorable, two adverse, and one refusing to take any part in the decision. The bill was not further considered during that Congress.

The existence of what is claimed to be a record of a patent in the General Land Office to McCarrahan was brought to his attention about the 6th day of July, 1870, at which time his claim was pending before the Committee on the Judiciary of the House of Representatives of the Forty-first Congress. He notified the committee of the discovery, and the committee on the 6th day of July, 1870, through its chairman, Hon. John A. Bingham, called upon the Department of the Interior for the volume of the records containing the same. The volume was produced and the record inspected

by the committee. On the 14th day of July, 1870, an authenticated copy of the record was called for by the chairman of the committee. The copy was not furnished until the 26th day of July, 1870, the record in the mean time, to wit, on the 25th day of July, 1870, having, it is claimed, been mutilated.

A majority of the Committee on the Judiciary reported adversely to the claim, but the chairman of the committee, Hon. John A. Bingham, and Hon. Charles A. Eldridge, a member of the committee, reported a joint resolution providing "that the patent should be transcribed into the records as it stood, without any mutilation or erasure," and authorizing and requiring the President to do in the premises whatever was just and equitable, without regard to any action or proceeding had subsequent to the 14th day of February, 1863, the date of the patent. This joint resolution was passed by the House on the 20th day of February, 1871. It was sent to the Senate, but not considered.

The House of Representatives of the Forty-third Congress passed a resolution requesting the Commissioner of the General Land Office to institute proceedings against the New Idria Company, but the Commissioner refused to bring the suit, and reported his refusal to the House (see Ex. Doc. 180, Forty-third Congress, second session).

The "sundry civil bill" for the year ending June 30, 1876, contained a clause authorizing the Secretary of the Interior to cause an examination to be made for the purpose of ascertaining whether any person, firm, or corporation was occupying any larger portion of said tract of land than was authorized by the laws relating to mining lands, and to make report thereof to Congress (see Ex. Doc. 11, Forty-fourth Congress, first session).

A majority of the Committee on the Public Lands of the House of Representatives of the Forty-fifth Congress reported a bill referring the whole case to the courts for a rehearing without reference to any decisions of the courts previously rendered, but the bill was not acted upon by the House.

A majority of the Committee on Private Land Claims of the House of Representatives of the Forty-sixth Congress reported adversely to a similar bill reported by the Committee on the Public Lands of the Forty-fifth Congress, but suggested that the decisions of the Supreme Court, adverse to the validity of this claim, are erroneous, and McGarrahan's title was originally valid; that "his only remedy" was by "direct act of Congress confirming his title to so much of said land as had not been legally disposed of by the Government, and the payment to him in money or other land of an amount equal in value to so much of the same as the Government had parted title with to innocent purchasers" (see House Report No. 29, third session Forty-sixth Congress). A bill was thereupon introduced in the House in accordance with this suggestion of the committee providing for the confirmation of the grant and the payment to McGarrahan of an amount in money equal to the value of so much of said grant as had been disposed of. The committee, on the 17th day of February, 1881, reported the bill favorably, with an amendment providing that compensation should be made in other land instead of money for so much of said land as the Government had parted title with; but this bill was never considered by the House (see House Report No. 273, Forty-sixth Congress, third session).

In the Forty-seventh Congress a similar bill was reported favorably by Mr. Muldrow, from the Committee on Private Land Claims of the House of Representatives, but it was never considered by the House.

In the Forty-eighth Congress a similar bill was considered by the Judiciary Committee of the House of Representatives and reported adversely, several members of the committee submitting views in favor of the passage of the bill, but no action was taken by the House.

Your committee has given this matter a great deal of consideration. The claim when first presented to Congress was carefully considered by the law committee of the House, and, as has been stated, that committee reported a bill confirming the title to the land in controversy to McGarrahan, and the House passed the bill.

The reasons which led the committee to the conclusions which it reached are stated in the report with great clearness and force. The House of Representatives of the Forty-first Congress passed the joint resolution before referred to, which virtually gave effect to the patent, notwithstanding the adverse decision of the Supreme Court, after a protracted debate. Your committee, in view of the action taken at different times by the two houses of Congress and their committees, and also in view of the decisions of the Departments and the different decisions of the courts, as above recited, have thought it best to refer the question of the validity of the grant again to the courts, to be acted on without regard to any former decision. It has likewise referred to the courts the question of indemnity to McGarrahan, in case it is decided that the grant is valid. The bill provides that all evidence taken before the land commissioners, or before a court of the circuit or district court of the United States in California, or before the committees of the two houses of Congress. and before

persons authorized by law to administer oaths, shall be competent testimony on the trial.

It appears that in January, 1881, and subsequently the United States parted with the title to certain portions of the land embracing the New Idria quicksilver mine to the New Idria Mining Company. If there was a grant of this land to Gomez, protected by the treaty of Guadalupe Hidalgo, and the courts so find under the provisions of the bill reported by your committee, then the question of the liability of the Government, in law or equity, to indemnify said McGarrahan for any portion of the lands disposed of by it is submitted to the court.

* * * * * * *

Your committee add hereto a letter from the Assistant Commissioner of the General Land Office with an abstract of entries made within the limits of said grant; also a letter from the Acting Commissioner of the General Land Office of January 25, 1888, concerning said entries; also a letter from Mr. McGarrahan and his counsel, the Hon. Eppa Hunton, all of which are made a part of this report, and attached as Exhibits A, B, C, and D.

Your committee, in order that there may be a final determination of this case in accordance with justice and right, recommend the passage of Senate bill 2599.

EXHIBIT A.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE.
Washington, D. C., May 5, 1888.

SIR: In response to your inquiry of this date I have the honor to transmit herewith an abstract of entries made within the claimed limits of the private grant known as the Panoche Grande, showing the names of the entrymen and the nature and area of the entries.

Very respectfully,

T. J. ANDERSON,
Assistant Commissioner

Hon. H. M. TELLER,
United States Senate.

EXHIBIT B.

Township No. ——, ——, Range No. ——, District of ——.

Description of tract.				Contents.	Rate per acre.	Purchase money.	Name of the purchaser.	Date of sale.	Number of receipt and certificate of purchase.	Remarks.
Part of section.	Section.	Township south.	Range east.							
				Acres.						
Homestead, E. ½ SE. ¼	33	16	11	80			John Babtiste Friand	June 3, 1881	4430	Final certificate No. 1665, Sept. 5, 1881.
Pre. cash, S. ½ SE. ¼ and S. ½ SW. ¼.	2	17	11	160	$2.50	$400.00	Andrew J. Ashurst	Nov. 27, 1883	9638	
Home., NW. ¼	4	17	11	160			Wm. Ashurst	July 11, 1881	4494	F. C. 2760, March 15, 1886.
Home., SE. ¼	4	17	11	160			John Ashurst	Sept. 11, 1882	5023	
Pre. cash, N. ½ SW. ¼	4	17	11	80						Located with bounty land wt. 66556, act 1855; 160 acres, David Dixon, Sept. 27, 1878; R. & R., No. 1888.
Pre. cash, S. ½ SW. ¼	4	17	11	80						Located with bounty land wt. 51832, act 1855; 160 acres, David Dixon, Sept. 27, 1878; R. & R., No. 1889.
Timber culture:										
E. ½ NE. ¼ and N. ½ SE. ¼.	10	17	11	160			Wm. Ashurst	Apr. 7, 1886	362	
S. ½ SE. ¼ and S. ½ SW. ¼.	10	17	11	160						Selected by State, Sept. 17, 1881, in lieu of SW. ¼ sec. 16, 3 S., 1 E., M. D. M., R. & R., 3956 & 3955; app'd May 29, 1883. List 49.
S. ½ SE. ¼ and S. ½ SW. ¼.	12	17	11	160						Selected by State, April 1, 1881, in lieu of SW. ¼ sec. 36, 16 S., 4 E., M. D. M., R. & R., 3918; app'd Nov. 16, 1882. List 48.
Pre. cash:										
NE. ¼	14	17	11	160						Located Aug. 10, 1872, Ramon F. Careaga, Agricultural College scrip 693, act July 2, 1862, R. & R., 1113.
Excess	14	17	11	160	1.25	200.00	Ramon F. Careaga	Aug. 10, 1872	3727	
W. ½ SE. ¼, S. ½ NW. ¼, and NE. ¼ SW. ¼.	14	17	11	200						Selected by State, May 2, 1881, in lieu of N. ½ NW. ¼ sec. 16 S., 4 E., M. D. M., and S. ½ NE. ¼ and NE. ¼ NE. ¼ sec. 16, 7 N., 32 W., S. B. M., R. & R., 3935; app'd Nov. 16, 1882. List 48.
Home., lots 1 and 2	24	17	11	88.18			Domingo Ortez	May 27, 1884	6099	

Home., SE. ¼	7	17	12	160			Refugio L. Valdez	Nov. 20, 1886	8231	F. C. 3017, June 13, 1887
Pre. cash:										
N. ½ NW. ¼	8	17	12	80						Located bounty land wt. 17830, act 1847; 160 acres, Refugio Llames Valdes, Sept. 27, 1878, R. & R., 119.
S. ½ NW. ¼	8	17	12	80						Located bounty land wt. 80081, act 1847; 160 acres, Refugio Llames Valdes, Sept. 27, 1878, R. & R., 120.
Home. lots 3, 4, and 6	17	17	12	142.54			Rosario Mercinda	June 16, 1887	8752	
Lots 2, 3, 4, 5, 6, 7, 8, 13, and 14.	18	17	12	319.01						Selected by State, Oct. 28, 1881, in lieu of SW. ¼ sec. 13, 16 S., 4 E.; NW. ¼ SW. ¼ sec. 16, 22 S., 7 E.; NW. ¼ SW. ¼ sec. 16, 1 S. 6 W.; and N. ½ NW. ¼ sec. 16, 16 S., 1 E., M. D. M., R. & R., 3963; app'd Nov. 16, 1882. List 48.
N. ½ SW. ¼	28	17	12	80						Selected by State, April 6, 1881; under acts July 2, 1862, June 8, 1868, and March 3, 1871, R. & R., No. 157, double minimum; app'd February 9, 1883. List 9.
Excess				80	1.25	100.00	University of California	Oct. 4, 1883	9425	
Mineral lot:										
38	32	17	12	20.66	5.00	105.00	New Idria Mining Co.	Dec. 11, 1879	77	
42	4	18	12	20.66	5.00	105.00	do	July 28, 1881	80	
43	4	18	12	20.66	5.00	105.00	do	do	81	
44	4	18	12	20.66	5.00	105.00	do	do	82	
38 of 13, 18 S., 11 E., and 39 of sec's 7, 18, and 19		18	12	252.97	5.00	1,265.00	Jas. P. Sargent *et al.*	Dec. 12, 1873	22	
38 in sec's 17, 18, 19, and 20.		18	12	139.07	5.00	700.00	do	do	21	

EXHIBIT C.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., January 25, 1888.

SIR: In response to your inquiry of the 21st instant, relative to the amount of land which has been disposed of within the claimed limits of the private grant known as the "Panoche Grande," in the San Francisco, Cal., land district, I have the honor to state that upon examination of the records of this office I find that 2,673.71 acres have been disposed of within the limits of said claim, which covers land in townships 16 and 17 south, range 11 east, and townships 17 and 18 south, range 12 east, Mount Diablo Meridian.

The copy of Senate bill No. 1030, handed to me by you, is herewith returned.

Very respectfully,

S. M. STOCKSLAGER,
Acting Commissioner.

Hon. H. M. TELLER,
U. S. Senate.

EXHIBIT D.

WASHINGTON, *April* 16, 1888.

DEAR SIR: Senator Voorhees, on December 31, 1887, presented a bill for the relief of William McGarrahan, which was referred to the Committee on Mines and Mining, of which you are a member.

A bill of a similar character was favorably reported by the Senate and House Committees on Mines and Mining of the Forty-ninth Congress, but was not reached on the Calendar of either house, and, of course, not considered.

A majority of the Committee on Mines and Mining of the House of Representatives, through its chairman, Mr. O'Ferrall, also reported a bill for McGarrahan's relief at this present session, which is now on the Calendar of the House.

The Committee on Private Land Claims of the House of Representatives, 17th February, 1881, Forty-sixth Congress, reported a bill confirming the grant to McGarrahan, *without further litigation*, and recommended that he should be indemnified in other lands, but it was never considered by the House. (See House Report No. 273, Forth-sixth Congress.)

In the Forty-seventh Congress a similar bill was reported favorably by Mr. Muldrow, the present First Assistant Secretary of the Interior, from the Committee on Private Land Claims of the House of Representatives, but it was never considered by the House.

Since the reference of this bill to your committee there has been incorporated therein three amendments thereby removing objections, as it is believed, of some of the members of the committee and those opposing its passage in its original form.

Senator Teller, on behalf of the committee and for its information, as I understand, made a personal application to the Hon. S. M. Stockslager, Acting Commissioner of the Land Office, to ascertain "the amount of land which has been disposed of within the limits of the private grant known as the Panoche Grande, Cal."

The Acting Commissioner, of date January 25, 1888, in reply, says: "That upon examination of the records of this office I find that 2,673.71 acres have been disposed of within the limits of said claim." (See letter addressed to Senator Teller by the Acting Commissioner.) It thus having appeared by the letter of the Acting Commissioner that only 2,673.71 acres, embraced in the land claimed by McGarrahan, have been disposed of, it would seem that the only questions involved in the bill are his title to and his indemnity for the value of these 2,673.71 acres, and they being wholly left to the courts it is to be hoped they will meet with the approval of the committee and allow the courts to pass upon them.

I respectfully but earnestly urge that your honorable committee report their conclusion to the Senate at their earliest convenience to the end that opportunity may be had by that body to pass upon its merits during this Congress.

Very respectfully,

EPPA HUNTON,
Of Counsel.

Hon. H. M. TELLER, U. S. S.,
Senate Chamber.

P. S.—With a view of relieving the United States from further liability beyond that involved in the 2,673 acres, I respectfully suggest that the committee will be pleased to request the Commissioner of the General Land Office to instruct by letter the register and receiver of lands in the San Francisco, Cal., land district to not permit any proceedings to be had in their office in any way affecting the right, title, or claim of William McGarrahan to the lands embraced within the limits of the rancho Panoche Grande; that said Commissioner of the General Land Office be requested to inform your committee what and all steps he shall take hereunder.

Respectfully,

WM. MCGARRAHAN.

51st Congress, 1st Session. | SENATE. | Report No. 1558.

IN THE SENATE OF THE UNITED STATES.

July 31, 1890.—Ordered to be printed.

Mr. Cockrell, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 1561.]

The Committee on Military Affairs, to which was referred the bill (S. 1561) to remove the charge of desertion against Patrick L. Dunn, have duly considered the same and submit the following report:

There was referred to your committee with this bill one of the stereotyped petitions with a printed heading, and signed by Mrs. Patrick L. Dunn, by her attorney, Patrick O'Farrell. In this petition Mrs. Patrick L. Dunn states that she is the widow of Patrick L. Dunn, who served in Company B, of the Ninth Regiment Connecticut Volunteers, and during his service contracted swamp fever, and was suffering therefrom when his regiment returned home on veteran furlough, and by reason thereof, together with sickness in his family, was unable to complete his term of military service, and on account of such absence is charged with desertion, and she prays for the removal of that charge. This petition is without date and not verified by affidavit.

With the petition there was also referred to your committee an application for certificate of honorable discharge, signed by Patrick L. Dunn and verified by affidavit, but nothing in the affidavit or the certificate of the notary to show when such affidavit was made. It seems to have been presented to the War Department in February, 1887. In this affidavit the claimant, Patrick L. Dunn, states that he was enlisted September 27, 1861, and re-enlisted as a veteran January 6, 1864, and continued in the service until about July 6, 1864, when he was taken sick, and was not present with his command at the time the regiment was consolidated into a veteran battalion and was not taken up on the rolls, and consequently he never received his discharge; and he states the names of a number of the members of his company, and then states that he never received a discharge, owing to the circumstances set forth above. This is the claim made by the claimant himself for an honorable discharge, and which was refused by the War Department.

There was also referred to your committee two affidavits upon the general blank form used in the Pension Office in pension claims, partly printed and partly written. One of these affidavits is signed by Patrick O'Leary and Patrick O'Brien, made May 5, 1888. In this they state that they were acquainted with Patrick L. Dunn, who died on December 23, 1887, for more than thirty years, and that about May, 1864, said Dunn came home on a furlough, was then suffering from malarial swamp fever, and continued to suffer from said fever until after the close of the war, and was unable on account of said sickness to rejoin his regiment.

The other affidavit was made by Lawrence O'Brien on the 10th of April, 1888, who states that he enlisted Patrick L. Dunn in October, 1861, and knew him to be a good, brave, and faithful soldier, and that during the first siege of Vicksburg he contracted malarial swamp fever, and was suffering therefrom at the time his regiment returned home on veteran furlough, about May, 1864, and was sick in New Haven when he left the camp to go to his home in New Britain, and was not able to join his regiment, which was ordered to Washington in July, 1864. He then states that Patrick's brother, Thomas, enlisted with him, and died after two years' service, and that Patrick's wife and Thomas's wife were sisters, and both had families of young children, and then says, "Patrick being sick and his brother died at the front, under the circumstances, I consider he was entitled to an honorable discharge from the United States service." He then states that he knows the facts above mentioned, as he served as first lieutenant in Company B of said regiment up to October, 1862, and captain of Company D up to October 26, the date of his discharge.

This is all the evidence presented to your committee. Your committee referred the bill to the Secretary of War for information and report, and received the following letter and accompanying report:

WAR DEPARTMENT,
Washington City, June 3, 1890.

SIR: In reply to your request of the 2d instant, for information upon Senate bill 1561, Fifty-first Congress, first session, to provide for relief of Patrick L. Dunn, Company B, Ninth Connecticut Volunteers, I have the honor to inclose a report from the officer in charge of the record and pension division of this Department.

Very respectfully,

REDFIELD PROCTOR,
Secretary of War.

Hon. JOS. R. HAWLEY,
Chairman Committee on Military Affairs, U. S. Senate.

CASE OF PATRICK L. DUNN, PRIVATE, COMPANY B, NINTH CONNECTICUT VOLUNTEERS.

Patrick L. Dunn, private, Company B, Ninth Connecticut Infantry Volunteers, was enrolled on September 27, 1861, to serve three years. He re-enlisted as a veteran volunteer January 1, 1864, in the same company and served until June, 1864, when he absented himself, without leave, from his command, then in Connecticut on veteran furlough, and never returned to it, although it was retained in service until August 3, 1865.

No testimony bearing on this case, other than certificates of good character, has been submitted to this Department, although on July 27, 1882, the Secretary of War informed Hon. John R. Buck, M. C., that "if the petitioners praying for relief in this man's case will present ground upon which their application is based—evidence tending to establish—that the man was not a deserter or that he left his command by proper authority and his whereabouts subsequent to his leaving and up to the date of muster-out of his company, the Department will then be better enabled to judge whether the petition should be granted."

A report to the foregoing effect was furnished the Secretary of War by the Adjutant-General, United States Army, on May 29, 1888, in connection with Senate bill 2976, Fiftieth Congress, first session.

In view of the official record and in the absence of any pertinent testimony, it can not be ascertained whether the charge of desertion can be removed in this case under the provisions of the act of Congress approved March 2, 1889.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

RECORD AND PENSION DIVISION, *June* 3, 1890.

From this official record it appears that in June, 1864, whilst on veteran furlough, the said Dunn absented himself without leave from his command and never rejoined it, although it was continued in the service until August 3, 1865. An application was made to the Secretary of War for the removal of the charge of desertion and was refused. Patrick L. Dunn himself, in his application for an honorable discharge, must have known the grounds upon which he was entitled to relief, and he states his case thus: that he "served until January 6, 1864, when he was re enlisted as a veteran, and continued in the service until about the 6th of July, 1864, when he was taken sick. He was not present with his command at the time the regiment was consolidated into a veteran battalion, and was not taken up on the rolls, consequently he never received his discharge."

This is the ground upon which the claimant himself relied, in order to receive an honorable discharge. Since his death his widow bases her claim for the removal of the charge of desertion against the deceased on the ground that the said Dunn "contracted swamp fever and was suffering therefrom when his regiment returned home on veteran furlough, and by reason of physical inability, arising from the effects of swamp fever, together with sickness in his family, he was unable to complete his term of military service."

Now, if this fact can be clearly established by competent evidence, the War Department has ample authority to remove the charge of desertion. There has no sufficient proof been presented to the War Department, and none has been presented to your committee. The said Dunn left his command without authority in June, 1864, and never rejoined it, although it was in the service until August 3, 1865. The evidence is wholly insufficient to disprove the correctness of the record in this case, and there is no ground upon which your committee can report this bill favorably. It was the duty of said Dunn when he was unable to rejoin his company to report the fact to his company commander or the proper military authority, with proper medical evidence of disability. Although his company was continued in the service until August 3, 1865, he never reported to his company or any proper military authority his whereabouts and his reasons for absence.

Your committee report the bill back to the Senate and recommend that it be not passed and be indefinitely postponed.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1559.

IN THE SENATE OF THE UNITED STATES.

AUGUST 1, 1890.—Ordered to be printed.

Mr. MANDERSON, from the Committee on Printing, submitted the following

REPORT:

[To accompany Senate resolution to print the usual number of the report of the Librarian of Congress exhibiting the progress of the Library during the year 1889.]

The Committee on Printing, to whom was referred the above resolution, report it back with the recommendation that it do pass.

The cost of printing the usual number will be $16.60, and of printing 500 additional copies $6.25, making a total of $22.85. The number of extra copies provided for in the resolution is the same as heretofore printed.

51st Congress, 1st Session. | SENATE. | Report No. 1560.

IN THE SENATE OF THE UNITED STATES.

July 30, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 4167.]

The Committee on Pensions, to whom was referred the bill granting an increase of pension to Sarah V. Azpell, have examined the same and report:

The claimant is the widow of Thomas F. Azpell, late assistant surgeon in the U. S. Army.

An official statement of his services is hereto appended:

War Department,
Surgeon General's Office,
Washington, June 23, 1890.

Dr. Thomas F. Azpell was appointed surgeon of United States volunteers in October, 1861, and was at once assigned to duty in the military general hospital at St. Louis, Mo., and during the summer of 1862, in addition to the above duty, he was made president of an examining board whose duty it was to pass on the fitness of volunteer surgeons entering the Army. He remained on these duties until the summer of 1863, when he was placed in charge of a large hospital steamer carrying sick and wounded from Vicksburg and other points on the Mississippi River to general hospitals at St. Louis, Cincinnati, and other places. He was found to be admirably adapted for this important duty, and was kept on it until near the close of the war.

In 1867 he entered the regular Army as an assistant surgeon. From this date he did excellent service in the Department of the East and at several posts in the Department of California. His health became so impaired that in 1873 he was granted a sick leave, which it was found necessary to renew from time to time until 1885, when he was placed upon the retired list.

The nature of the service this officer performed during the war was of the most responsible and trying duty upon which an officer could be placed, during all of which he was exposed to the malarious and hot climate of the lower Mississippi. I am of opinion that the premature breaking down of his health was due to this long strain and exposure to unhealthy surroundings. There was no more efficient officer in the service during the rebellion.

He left a family almost in a destitute condition, and the pension allowed to his widow ($20 per month), is entirely inadequate for her support.

Jno. Moore,
Surgeon-General U. S. Army.

Mrs. Azpell has for many years maintained herself by her own labor and the small pension she has received. She is well advanced in years and her health has failed so that she is unable to perform any work. She has no relatives upon whom she can rely for assistance. She has no estate or home. She is absolutely alone and helpless. The small pension she is receiving is not sufficient to provide for her necessities in her destitute condition.

Your committee are of the opinion that the relief proposed should be granted, and therefore recommend the passage of the bill.

51st Congress, 1st Session. | SENATE. | Report No. 1561.

IN THE SENATE OF THE UNITED STATES.

August 1, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8584.]

The Committee on Pensions, to whom was referred the bill granting increase of pension to Edward Healy, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill is recommended.

[House Report No. 1410, Fifty-first Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8584) to increase the pension of Edward Healy, submit the following report:

The pensioner received an increase of his pension to $45 per month by the Fiftieth Congress, upon the facts in case as set forth in the report of the Invalid Pensions Committee, which is as follows:

[House Report No. 1683, Fiftieth Congress, first session.]

His medical examination February 24, 1870, shows about the same condition found on first examination. June 14, 1873, his examination shows same disabilities increased, and a rating of $18 per month. Examination September 4, 1873, shows same condition as previous examination. Examinations November 11, 1873, November 18, 1874, show steadily increased disability. Examination June 7, 1875, shows progress of rheumatic trouble and heart disease. Examinations September 5, 1877, April 14, 1881, June 14, 1883, August 20, 1884, December 2, 1884, and April 7, 1887, show progress of both diseases, rheumatism and resulting heart disease. Last examination shows "joints and fingers of both hands slightly enlarged, toes of both feet distorted, stiffness of joints of lower extremities; locomotion very difficult; area of cardiac dullness increased; action of the heart excited, forcible, and irregular; a rough throb over region of mitral valves; has valvular lesion, with cardiac hypertrophy, no doubt the result of rheumatism. Is incapacitated for performing any manual labor."

Drs. Draper and Elliott testified October 27, 1874, that the condition of claimant's feet, resulting from rheumatism, was such as to render walking impossible at times.

Thomas T. Smith testified June 10, 1866, that claimant "is frequently confined to his bed on account of rheumatism and heart disease, and that he is unable to dress or undress himself."

Julius Emmons testifies June 10, 1866, that claimant's disability has steadily increased during the ten years that he has known him, "and that he is unable to dress or undress himself, and is frequently confined to his bed from diseases of heart and rheumatism."

Grove Douglass testified March 28, 1877, to several years' intimate acquaintance with claimant, and "that he is afflicted in a most terrible manner with chronic rheumatism in feet and legs, and directly affecting his heart to such an extent that he is utterly incapacitated for business and all labor."

Dr. Garnett testifies that claimant's "feet are in such a condition as to render locomotion almost impossible." Dr. D. W. Bliss gives testimony fully corroborating that of Dr. Garnett. While the disability clearly shown to result from the claimant's rheumatism and heart troubles may not actually require the constant aid and attendance of another person, it is shown by facts, as well as testimony most reputable in character, that the aid and attendance of another person is an absolute necessity for considerable portions of the time.

It is further shown that the claimant's heart trouble is such as to render continuance of existence very uncertain, and that death may result almost instantly from some trivial cause of excitement or improvident exercise.

The bill is reported favorably with amendments, with a recommendation that it do pass.

The claimant served in the Sixth Regiment United States Infantry from June 6, 1860, to January 20, 1866, when he was discharged on account of disability because of "chronic rheumatism, with distortion of toes of both feet." He was granted pension August 23, 1869, for rheumatism of both feet, at the rate of $6 per month. Increase was granted from January 7, 1875, to $18 per month for rheumatism and resulting heart disease. Pension was again increased March 3, 1883, to $24 per month, and on December 2, 1884, pension was increased to $30 per month for rheumatism and heart disease as a result. His medical examination August 13, 1869, shows "distortion of both feet, the toes being flexed by muscular action, causing great deformity and difficulty in progressive locomotion."

The committee recommend the following amendments: Strike out the words "placed on" in the first line and insert in lieu thereof the word "increase," and also to strike out the words "roll, the name" in the same line; also to strike out the words "placed on the pension-roll" in the fourth line of said bill, and to insert in lieu thereof the words "increase the pension," and also to add, after the word "infantry" in the sixth line of said bill, the following words, "and to pay him a pension of forty-five dollars in lieu of the pension he is now receiving."

Since the allowance of the increase as aforesaid the pensioner's condition has become much worse, as appears from the following testimony:

Dr. George N. Perry, No. 1524 Fourteenth street, northwest, Washington, D. C., certifies under oath that he is the family physician of Edward Healy, and finds his condition to be as follows: Rheumatism, resulting in heart disease, with great distortion of both feet and legs, and constantly increasing in a more aggravating form. In addition to these he suffers much of the time from severe pains in the head. His eyesight is rapidly failing, and he can not read any kind of print, or distinguish objects even a short distance away. Appetite very poor, constipation of the bowels, micturition is difficult and painful, and violent cramps in the hands and lower extremities are of very frequent occurrence. His rest is broken, and he is compelled to remain in bed twenty-one hours out of twenty four. His lower extremities are atrophied, and locomotion without assistance is impossible. In his present condition he is utterly helpless and his death liable to occur at any time. It is safe to say that all the symptoms enumerated will become more and more aggravated.

John O'Neill, 102 C street, southwest, Washington D. C., states under oath that he has known Edward Healy intimately for over seven years, and that he has no use of his feet and legs whatsoever, and that he cannot remain out of his bed more than a few moments at a time. His wife and children use all of their time in taking care of him and aiding him to exist. He has constant pain of heart, head, and limbs. His eyesight is gone. He is a man of good and steady habits, temperate, moral and religious.

John P. King, corner Thirteenth and one-half and E streets, northwest, Washington, D. C., states under oath that he has known Edward Healy for over twenty years and that he is a man of regular habits, moral, temperate, and that he is an absolute cripple, unable to dress or undress himself, get out of bed or into his bed without assistance. He has no use of his feet or legs whatsoever, and suffers great pain constantly. I know that his disability is constantly and very rapidly increasing. His eyesight is about gone. I do not believe he can long survive. His wife and children are his constant attendants and never leave him a moment.

Alfred Bradford testifies under oath that he has known Edward Healy over four years, and that he is from his diseases a mere wreck of a man, taken care of by his family; that his feet and legs do not resemble those of a human being; also that he believes he has in a great measure lost his reason.

Your committee are of opinion that the evidence warrants the granting of further increase, and therefore report favorably on the accompanying bill and ask that it do pass, amended, however, by striking out the word "five" in line 7, and insert therein instead the word "two."

51st Congress, 1st Session. | SENATE. | Report No. 1562.

IN THE SENATE OF THE UNITED STATES.

August 1, 1890.—Ordered to be printed.

Mr. Colquitt, from the Committee on Private Land Claims, submitted the following

REPORT:

[To accompany S. 2212.]

The Committee on Private Land Claims, to whom was referred the bill (S. 2212) relative to the Rancho Punta de la Laguna, submit the following report:

The purpose of this bill is to re-imburse the grantees, their legal representatives and assigns, of the Punta de la Laguna Mexican Land Grant in California, for lands of which they were deprived by an erroneous survey made by the officers of the United States.

The grant was for six Spanish square leagues, or 26,648.42 acres of land, to be selected within certain specified boundaries. The claim was duly presented to the United States Land Commission and officially confirmed February 5, 1857.

Immediately west of said grant a prior grant had been made, known as the Guadalupe Rancho, which was also duly presented to the Board of Land Commissioners and confirmed. The Guadalupe Rancho was surveyed by the United States in September, 1860, and immediately thereafter, and during the same month, the Laguna Rancho was surveyed. The western line of the Laguna Rancho was the same as the eastern line of the Guadalupe Rancho; in other words, the Laguna was surveyed to join the Guadalupe, as was usual in such cases.

A patent was issued to the Guadalupe in pursuance of such survey June 30, 1866. The owners of the Guadalupe, however, refused to receive the patent on the ground that it did not contain all the land to which they were entitled.

On October 22, 1866, the Commissioner of the General Land Office ordered a new survey of the Guadalupe, which was made in February, 1867. This survey included 5,099.93 acres more land than the first survey, which additional quantity was taken from the land embraced in the Laguna survey. A patent was issued according to the new survey in 1870. This patent was recalled before delivery, and on March 26, 1873, the Secretary of the Interior made a decision canceling the new patent and holding that the first patent, which agreed with the survey of the Laguna, was the official patent of the Guadalupe.

Pending these proceedings the owners of the Laguna were prevented from obtaining a patent on account of the disputed boundary. After the boundary was settled by the Secretary of the Interior a patent was issued on the 2d of October, 1873, to the confirmees of the Laguna in accordance with the survey of 1860. Thereupon the owners of the Guadalupe brought suit and recovered the 5,099.93 acres of land which

were not included in the first survey and patent of the Guadalupe, but which were included in the second survey and patent which had been canceled by order of the Secretary of the Interior. (See Le Roy *vs.* Clayton, 3d Sawyer, 498, and Le Roy *vs.* Jamison, 3d Sawyer, 369, and decision United States Supreme Court, Adams *et al. vs.* Norris, 108, U. S., 591.)

By these proceedings the owners of the Laguna Rancho were deprived of 5,099.93 acres of land which were included in their patent from the United States. In the mean time the United States sold all the land to settlers, except a mere trifle (probably of little value), which was included in the original exterior boundaries of the Laguna grant and not included in the patent to the confirmees of that grant. By the terms of the confirmation the confirmees of the Laguna grant were entitled to six Spanish square leagues, if the same could be found within the exterior limits described in the grant. The mistake in the survey was made by the officers of the United States who, in making such survey, followed the line of the Guadalupe survey, which had been previously made. This mistake could have been rectified if the United States had reserved the lands within the exterior boundaries of the Laguna Rancho until the disputed boundary had been adjusted. But this was not done. Entries were allowed while the controversy was pending, and when the controversy was ended a new survey of the Laguna Rancho could not be made without including land which had been granted and patented to settlers.

There can be no doubt of the right of the grantees of the Laguna Rancho, as before remarked, to six Spanish square leagues of land, provided the same are contained within the exterior boundaries named in the grant.

Your committee have carefully considered the evidence as to the extent of the land included within the specified boundaries, and have come to the conclusion that there was more than sufficient land contained in such boundaries to satisfy the grant if there had been no mistake in the survey. Most of the calls of the grant are well known and established landmarks. The only call about which the committee had any difficulty in accurately determining was the northeast corner. The location of this corner, however, on the diagram made by the surveyor-general of California (herewith printed in connection with a letter of the Commissioner of the General Land Office), is probably correct. At all events, the committee is fully satisfied that it is sufficiently accurate for all practical purposes and that there was enough land within the limits of the judicial possession of the Laguna grant to constitute six Spanish square leagues. All the officers of the Government who have investigated the subject concur in the opinion that the confirmees of the Laguna grant, their heirs and assigns, were entitled to six Spanish square leagues, and that more than that quantity is contained within the exterior boundaries named in the grant.

For a better understanding of the facts in the case a letter of the Commissioner of the General Land Office, dated May 16, 1890, together with a skeleton diagram with explanatory notes, prepared by the surveyor-general of California, are hereto attached.

Your committee have made it a rule, however, to decline to recommend relief in any case where the claim has passed into the hands of speculators, and have accordingly examined that question in this case. They find that some of the present claimants are the heirs of the original grantees and that others acquired their interest by purchase prior to the confirmation. So far as your committee were able to ascertain the

claimants are legitimate and bona fide owners. But inasmuch as the committee is not in possession of a complete deraignment of title so as to determine accurately the interests of all the parties, they recommend that the bill be amended, requiring the Secretary of the Interior to ascertain who are the beneficiaries, before awarding the relief to be provided by the act.

Your committee see no necessity for the issuance of scrip which might be dealt in by speculators, and think that the most direct method of relief would be to allow the interested parties, after their rights shall have been determined by the Secretary of the Interior, to select lands in the State of California, not mineral and not reserved, in quantities equal to the amount of which they were deprived by the erroneous survey above described.

The committee therefore recommend that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the amendment submitted with this report; also that the preamble be amended to conform therewith. All of which is respectfully submitted.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., May 16, 1890.

SIR: I am in receipt, under date of the 14th instant, of a letter from the Committee on Private Land Claims, United States Senate, inclosing S. 2212, entitled "A bill relative to the Rancho Punta de la Laguna."

Said committee desires to be furnished by this office with copies of all papers here, in any way pertaining to this claim, and also my opinion "as to its merits, and whether or not it should be allowed," and it is especially desired that this information, etc., be furnished by to-morrow, the 17th instant.

When the committee refers to "all papers in your (this) office in any way pertaining to this claim," I understand the claim to indemnity, as set up in the bill, to be referred; and I have, therefore, the honor to transmit, herewith, copies of all papers which have been heretofore furnished the Committee on Private Land Claims of the House of Representatives, where this subject has been under consideration during the present session of Congress.

Additional copies are likewise supplied, all of which are described in the accompanying schedule.

The facts in this case as shown by the record may be summarized as follows:

The original grant of the "Punta de la Laguna" was by natural boundaries, defined and made certain by the delivery of juridical possession.

Congress established the machinery for the adjudication of claims of this character by the act approved March 3, 1851 (Stat. 9-631) and supplemental legislation; and the U. S. district court finally confirmed the claim to the extent of six square leagues, (26,632.08 acres), and no more, within the lines described in said juridical possession.

These limits are shown by diagram herewith, prepared by Surveyor-General Pratt, April 26, 1890, at the request of this Office, and for the information of Congress.

The area of the land included therein is estimated to be 30,200 acres.

The patented lines of the "Punta de la Laguna" and surrounding claims are shown by the diagram inserted in House Report No. 792, present session, upon this claim for indemnity.

Some 9,000 acres of land, shaded yellow in said diagram, entirely within the juridical possession of the aforesaid confirmed claim, have been surveyed and practically all disposed of under the public-land laws, as shown by our office tract books.

Said claim was not properly located and surveyed by this Government, under said confirmation; but, on the contrary, was surveyed and patented to include lands within the "juridical possession" and patent of 1870, of the Rancho "Guadalupe," as has been determined by the courts.

It is evident that the "Punta de la Laguna" could have been located in place for the entire quantity confirmed by the court, as aforesaid, without interference with either of the surrounding confirmed claims and within the limits of its juridical possession.

If the lands shaded yellow in said diagram had not been treated as public lands by the United States (which they never were), the claim might yet be satisfied under the decree of court; that is, the patent might be surrendered, and a new survey made

and new patent issued in full satisfaction; but in my opinion no such action can now be taken, on account of the interference with the "Guadalupe;" therefore the "Punta de la Laguna" has been satisfied in place, *pro tanta*, for 21,530.14 acres, out of the amount decreed by the district court, leaving a deficiency under said confirmation, as estimated, of 5,101.94 acres, according to my calculation, being the difference between six Spanish square leagues, and the extent of the conflict with the "Guadalupe."

I am satisfied after a careful examination of this case that the equities are with the confirmees and patentees, Luis Arralenes and Emidio Miguel Ortega, their heirs, assigns, and legal representatives; but it lies entirely within the purview of the legislative branch of the Government to apply the remedy, the extent thereof, and method of its application.

I am, sir, very respectfully, your obedient servant,

LEWIS A. GROFF,
Commissioner.

The SECRETARY OF THE INTERIOR.

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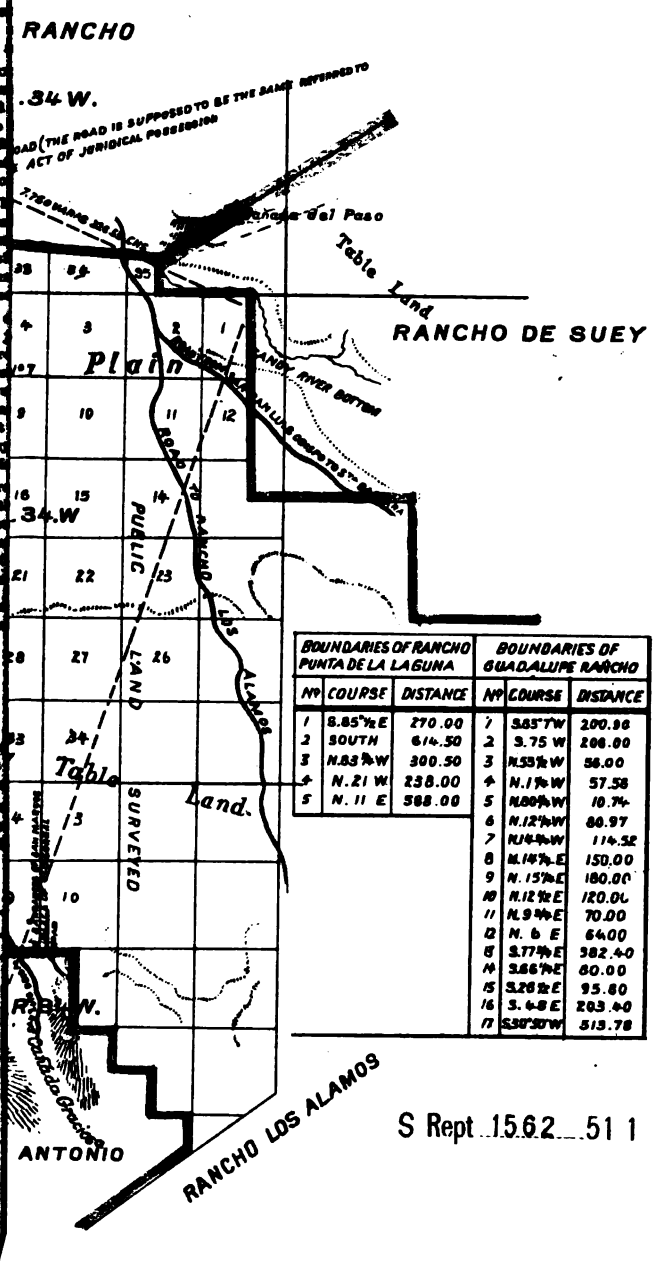

BOUNDARIES OF RANCHO PUNTA DE LA LAGUNA		
Nº	COURSE	DISTANCE
1	S.85°½E	270.00
2	SOUTH	614.50
3	N.83½W	300.50
4	N.21 W	238.00
5	N. 11 E	388.00

BOUNDARIES OF GUADALUPE RANCHO		
Nº	COURSE	DISTANCE
1	S.85°7'W	200.96
2	S.75 W	206.00
3	N.55½W	56.00
4	N.1½W	57.58
5	N.80½W	10.74
6	N.12½W	80.97
7	N.14½W	114.52
8	N.14½E	150.00
9	N. 15½E	180.00
10	N.12½E	120.00
11	N.9½E	70.00
12	N. 6 E	64.00
13	S.77½E	382.40
14	S.86½E	60.00
15	S.26½E	95.80
16	S. 4½E	203.40
17	S.38°30'W	513.78

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51st Congress, 1st Session. | SENATE. | Report No. 1563.

IN THE SENATE OF THE UNITED STATES

August 4, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 4228.]

The Committee on Pensions, to whom was referred the bill (S. 4228) granting a pension to Mary S. Williams, have examined the same, and report:

This bill provides for the pensioning of Mary S. Williams, whose first husband, John W. Honey, was a lieutenant in a company of the Missouri Militia, in the war of 1812. The claimant was born in the Territory of Missouri in 1805. In March, 1821, she married Honey. Her marriage took place seven years after the close of the war in which her husband was a soldier. After her husband's death, which occurred in 1832, she married Charles S. Williams. Her claim was rejected by the Pension Office on the ground of her remarriage with Williams.

She was not married to her first husband until long after the war, in which he served for a short time, and is now the widow of another husband, and the committee are not aware that Congress has ever granted a pension under similar circumstances. The bill is therefore reported unfavorably, with the recommendation that it be indefinitely postponed.

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51st Congress, 1st Session. | SENATE. | Report No. 1564.

IN THE SENATE OF THE UNITED STATES.

August 6, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2431.]

The Committee on Pensions, to whom was referred the bill (H. R. 2431) granting a pension to Mary H. Curtis, have examined the same and report:

The report on which this bill passed the House is concurred in, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2431) granting a pension to Mary H. Curtis, submit the following report:

The soldier, Charles S. Curtis, son of claimant, served as a member of Company B, First Vermont Heavy Artillery, for nearly three years. He was discharged from the service at the end of the war and went home in greatly impaired health and died from the effects of disease contracted in the service, a very short time after his discharge, without having made an application for pension. He left a widow, but no children. The widow remarried ten months after the soldier's death, and no pension has ever been granted to any one on account of the soldier's service and death.

Evidence is shown that the soldier contributed to the support of his parents in his youth, and that the mother is now old, in a destitute condition, and dependent upon others for support, she being afflicted by a disease which is incurable (cancer). She is truly dependent, and is deprived of the support of her son by the casualties of war.

The bill is reported favorably with a recommendation that it do pass.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1565.

IN THE SENATE OF THE UNITED STATES.

AUGUST 6, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 4209.]

The Committee on Pensions, to whom was referred the bill (S. 4209) granting a pension to Henry W. Haley, have examined the same and report:

This is a bill to pension Henry W. Haley, now living near Orange City, in Valusia County, Fla., and who was employed as a scout during the late war in the years 1862 and 1863. The services in this capacity rendered by Haley are verified by Col. William P. Lyon, who commanded the Thirteenth Wisconsin Regiment, and was in command of that regiment at Fort Donelson, Tenn., on or about the 3d of February, 1863. In testifying in this case Colonel Lyon makes affidavit to the following facts:

An attack was made on our troops at Fort Donelson, on the Cumberland River, by the Confederates, said to be commanded by Generals Wheeler and Forrest, and I was ordered by Col. W. W. Lowe, of the Fifth Iowa Cavalry, at Fort Henry to go with my regiment to Fort Donelson, to the relief of the troops there commanded by Colonel Harding of the Eighty-third Illinois Volunteers. At the time H. W. Haley, a loyal citizen of Tennessee, was acting as a scout in our service, and I took him with me on that expedition. Before reaching Fort Donelson my advance guard encountered the pickets of the rebel force which had been thrown across the Fort Henry road.

Mr. Haley was with the advance guard by my order; a skirmish followed, in which Mr. Haley was shot in the thigh, and severely wounded. As I recollect the facts his thigh was shattered and he was permanently crippled. Mr. Haley was intensely loyal to the Government and rendered valuable service as a scout. He impressed me as a brave and reliable man.

In a letter to the member of the committee who makes this report, Colonel Lyon writes in regard to Haley:

Not being mustered in as a soldier, the general pension laws do not, I suppose, reach his case. He was a most valuable scout. He was brave, sagacious, and trustworthy, and intensely loyal to our cause. He is now old and poor. No one is better entitled than he to the bounty of the Government.

Colonel Lyon was one of Wisconsin's best soldiers, and is well qualified to estimate the value of this man's service. He is now one of the associate judges of the supreme court of the State of Wisconsin, and is justly regarded as one of the most valued citizens of the State.

The bill is reported favorably with a recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1566.

IN THE SENATE OF THE UNITED STATES.

August 5, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1906.]

The Committee on Pensions, to whom was referred the bill granting a pension to Levi H. Naron, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1906) granting a pension to Levi H. Naron, submit the following report:

The claimant in this case was a citizen of Mississippi, and owner of a fine plantation at the breaking out of the late war. Being a strong Union man he disposed of his property, came within the Union lines, and entered the service of the Government as a scout. He served as chief of scouts nearly during the entire war, under Generals Rosecrans, Dodge, Grierson, and others.

While on a raid with General Grierson's forces in February, 1865, during an attack by the enemy his horse fell with him, severely injuring his left hip, from which injury he is still suffering, as shown by the medical certificate on file in the case.

There is no question as to the incurrence of the disability, but his claim for pension has been rejected by the Pension Office on the ground that there is no provision in the general law under which he could be pensioned.

The value of Mr. Naron's services to the armies in which he served is clearly shown by the testimonials of Generals Rosecrans and Dodge before your committee.

It has always been the rule of the House to provide pensions to scouts who were injured while in the performance of their duties, a fact which is shown to the satisfaction of your committee in this case.

Naron is now old, much disabled, and in need of assistance from the Government which he served so well.

The bill is therefore returned, with the recommendation that it do pass, with the following amendment: Add "and pay him a pension at the rate he would be entitled to had he been regularly mustered into service as a captain."

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51st Congress, 1st Session. | SENATE. | Report No. 1567.

IN THE SENATE OF THE UNITED STATES.

August 6, 1890.—Ordered to be printed.

Mr. McMillan, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany S. 3941.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 3941) granting leaves of absence to clerks and employés of the first and second class post-offices, have examined the same and report:

The duties of the employés of the post-offices included in this bill are exacting and important, and there seems to be no reason why they should not receive the same consideration which is generally extended to other clerks in the employment of the Government. In this opinion the Postmaster-General concurs. This committee has also had under consideration Senate bill 4283, granting leaves of absence of thirty days to employés of the Post-Office Department in the mail-bag repair shops, and recommend the passage of Senate bill 3941 with amendments herewith reported embracing the employés provided for in Senate bill 4283, but fixing the leave of absence at fifteen days instead of at thirty days in any one fiscal year.

51st Congress, 1st Session. | SENATE. | Report No. 1568.

IN THE SENATE OF THE UNITED STATES.

August 7, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6798.]

The Committee on Pensions, to whom was referred the bill granting increase of pension to George H. Brown, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6798) to increase pension of George H. Brown, Company I, Sixth Vermont Volunteers, submit the following report:

The pensioner received a gunshot wound at the battle of the Wilderness, resulting in compound fracture of femur and shortening of the left leg, with anchylosis of knee-joint and curvature of the spine. He is now in receipt of pension at the rate of $30 per month, and asks that the same be increased to $45, the rate provided by law for amputations at or near the hip-joint.

The medical examinations show that the soldier is compelled to walk on his toes, the injured leg being 3½ inches shorter than its fellow; has complete anchylosis of the knee-joint in straight position; muscles of the leg atrophied and soft. He can only walk with great difficulty, and suffers much pain day and night. Frequent abscesses in thigh make the disability still greater. The leg is covered with cicatrices and varicose veins.

From the several medical examinations it is evident that the pensioner's condition is much worse than if his leg had been amputated at or near the hip-joint, in which case he would be entitled to receive the amount now asked for under the general law.

In the opinion of your committee the relief asked for should be granted, and therefore return the bill with the recommendation that it do pass.

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51st Congress, 1st Session. | SENATE. | Report No. 1569.

IN THE SENATE OF THE UNITED STATES.

August 7, 1890.—Ordered to be printed.

Mr. Manderson, from the Committee on Printing, submitted the following

REPORT:

[To accompany Senate resolutions to print 1,000 additional copies of the bill (H. R. 11045) to amend and supplement the election laws of the United States, one presented by Mr. Cockrell and one by Mr. Jones, of Arkansas, both for the same purpose.]

The Committee on Printing, to whom was referred the above resolutions, report the one back presented by Mr. Cockrell with the recommendation that it be indefinitely postponed; and that of Mr. Jones is reported back with an amendment, as follows: After the word Senate insert the following words: "And that the said number of extra copies be placed in the folding-room, and apportioned equally among the members of the Senate." Thus amended, the committee recommend its passage.

The cost of printing will be $80.65.

51st Congress, 1st Session. | SENATE. | Report No. 1570.

IN THE SENATE OF THE UNITED STATES.

August 8, 1890.—Ordered to be printed.

Mr. McMillan, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany S. 4283.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 4283) to provide for granting leaves of absence to employés of the Post-Office Department employed in the mail-bag repair shops connected with said Department, have examined the same, and report:

The provisions of this bill having been reported favorably as an amendment to S. 3941, excepting the change from thirty days to fifteen days' leave of absence, your committee report this bill back to the Senate adversely and recommend that it be indefinitely postponed.

51st Congress, 1st Session. | SENATE. | Views of the minority, No. 1571.

IN THE SENATE OF THE UNITED STATES.

August 8, 1890.—Ordered to be printed.

Mr. Edmunds, from the minority of the Committee on the Judiciary, submitted the following

VIEWS OF THE MINORITY:

[To accompany H. R. 9014.]

The undersigned are unable to concur in the report of the majority of the Committee on the Judiciary upon House bill No. 9014, to define and regulate the jurisdiction of the courts of the United States.

Inasmuch as we think the substitute reported by the majority of the committee is preferable to the bill as it passed the House of Representatives, it is not necessary to consider the features of the House bill.

In respect of the substitute proposed we submit the following considerations. The substitute provides:

1. For the appointment of an additional circuit judge in each circuit.
2. It provides for the creation, in each circuit, a circuit court of appeals, to consist of three judges, two of whom shall be a quorum.
3. It provides that the Chief-Justice and associate justice of the Supreme Court, assigned to each circuit, and the circuit judges in the circuit and the several district judges in the circuit, shall be competent to sit as judges in the court of appeals.
4. It provides that in the absence of the justice of the Supreme Court and of one or both of the circuit judges, one or more of the district judges shall be competent to sit to make the necessary number of three for a full court, and two for a quorum.
5. It excludes from sitting in the court of appeals any justice or judge who had heard a cause below.
6. It abolishes the appeals now allowed by law from the district to to the circuit courts, and provides for a direct appeal from the district courts, in all cases appealable at all, to the Supreme Court of the United States, or to the court of appeals, as the case may be.
7. It provides for appeals from the district courts and from the circuit courts direct to the Supreme Court in the following instances only:

a. Where a question of jurisdiction is raised;
b. Final decrees in prize causes;
c. Cases of crime punishable by death;
d. Cases involving the construction or application of the Constitution of the United States, but not in cases involving the construction or application of acts of Congress;
e. Cases in which the *constitutionality* (only) of any law of the United States, or the validity or construction of a treaty, is drawn into question;
f. In cases in which the law of a State is claimed to be in contravention of the Constitution of the United States.

8. It leaves the jurisdiction of the Supreme Court in respect of cases brought from the highest court of a State, as the law now is.

9. It gives the court of appeals jurisdiction to review decisions of the district and circuit courts in all other cases.

10. It provides that the judgments of the court of appeals shall be final in all cases:

a. In which the jurisdiction is dependent upon the character of the suitors, as citizens or aliens;

b. In cases arising under the patent laws;

c. In cases under the revenue laws;

d. In cases under the criminal laws; and

e. In admiralty cases other than prize.

11. It authorizes the court of appeals to certify to the Supreme Court questions of law.

12. It authorizes the Supreme Court in the cases last mentioned to review the whole case.

13. It also authorizes the Supreme Court to require the court of appeals to send up for consideration any case pending therein.

14. In all other cases in the court of appeals it authorizes an appeal to the Supreme Court from the court of appeals when the matter in controversy exceeds one thousand dollars.

These are the broad and leading features of the legislation proposed by the majority of the committee.

It will be seen from the foregoing, that in general, the Supreme Court of the United States is excluded from reviewing—

I. Cases in which the jurisdiction of the national courts depends upon the character of suitors;

II. All cases arising under the patent laws;

III. All cases under the revenue laws;

IV. All cases under the criminal laws;

V. All admiralty cases other than prize.

It is not perceived by the undersigned upon what principle it is that all cases in which the jurisdiction of the national courts is invoked by citizens of different States, aliens, etc., are excluded from review by the Supreme Court. The Constitution puts suits of that character upon the same footing as suits drawing in question the Constitution of the United States and the laws of Congress—as being entitled to the same judicial consideration of the national authority as the others, and for very obvious reasons. The judicial establishment of the United States was created for the purpose of defending and enforcing all rights (and in an equal degree) existing under the national character of the Union; and it was thought, undoubtedly, that among the most important of these was that of protecting a citizen of one State against any local bias that might exist against him in another and distant community.

This, we think was and is even more important than the consideration by a national court of subjects arising in respect of the construction and effect of the Constitution or of a national law; for, in the absence of any local bias, it may be justly supposed that the local court, whether State or national, would be likely to decide such questions impartially, and on the whole correctly; while in the case of local bias, it may, at least to a certain extent, just as well exist in a national court administering the laws in a particular community, as in a State court. We believe, therefore, that the Supreme Court ought to have jurisdiction to review cases arising in the national courts in the various

States when their jurisdiction has been invoked on the ground of citizenship or alienage quite as much as in cases where the jurisdiction is not thus invoked, but depends upon the construction of the Constitution or a law.

We are compelled to think, therefore, that the attempt made in the scheme of the majority of the committee to diminish the number of causes coming to the Supreme Court is, in the respect before referred to, arbitrary, and not defensible upon any consideration other than the necessity of finding some means for a more rapid disposition of causes in that court. We believe it to be important to the best interests of the whole people in every part of the Republic that every suitor in the courts of the United States should have an equal right to take the judgment of the highest court of the Union upon his particular case, be it great or small. If there be an overruling necessity to limit the jurisdiction of the Supreme Court in order that justice may be finally and speedily administered, of course that necessity must be yielded to and provision made accordingly. But we think that the Supreme Court may, without excluding from its consideration any case that now by law may be brought to it, dispose speedily of all causes that may be upon its calendar from year to year, without any exclusion of any class of cases of which it now has appellate jurisdiction. We think this can be done, as in one form or another it is done in the States and in other countries, by providing that the Supreme Court shall hear causes coming to its appellate jurisdiction by acting in separate divisions of three or more justices, and, thus going on with three hearings at the same time.

It can not be doubted that, practically, the administration of justice in this way would in a very short time bring up the calendar of the Supreme Court to a point where every case would be determined at the term to which an appeal or writ of error should be taken.

It has been suggested that there is doubt in respect of the constitutionality of a provision looking to this end; but we think there is no solid, and indeed no plausible, ground for such a contention. It is true that the Constitution provides that there shall be "one Supreme Court;" but it also provides that the appellate jurisdiction of that court shall be exerted "both as to law and as to fact with such exceptions, and *under such regulations as Congress may make.*" It appears to us clear, therefore, that whatever may be said in respect of the original jurisdiction of the Supreme Court, Congress has power to provide in what way hearings and determinations, in the exercise of its appellate jurisdiction, shall be had in that court, and to provide that, for the purpose of exercising such appellate jurisdiction, any stated number of its justices shall constitute a quorum, and that any three or other convenient number of the justices may proceed at the same time to hear arguments and pronounce decisions, not as three separate Supreme Courts, but as one Supreme Court, exercising its appellate faculty in a twofold or threefold manner at the same time.

No one can question, we think, that it is just as competent for Congress to provide that three justices shall constitute a quorum as to provide that five or six, or any other number shall constitute a quorum; and Congress has from the beginning, from time to time, declared what number out of and less than the whole number of justices shall be such a quorum. It is believed to be beyond question that the exertion of the appellate power of the court in the way suggested would be, in respect of the ordinary course of causes and questions, not only satisfac-

tory to the bar, but would result in the same conclusions and judgments as if counsel had been heard before all the judges. It is a fact well known to gentlemen of the bar and others who attend the sittings of the Supreme Court in the Capital—as it is, we think, more clearly known to the judges themselves—that in certainly six appellate cases out of ten that are heard the opinion of each justice is formed, and formed to the same conclusion, almost as soon as the case is fairly stated. If this be so, the conducting of separate hearings, and the separate disposition of causes by divisions of the business will result in the same end as if they had been heard before all the judges sitting together.

This, we think, has also been proved by the course of such business in the States and in other countries. If, in such a case of separate hearings by divisions of the justices, a question of extraordinary difficulty or high consideration should arise, provision should be, and can be, made for the matter being heard before all.

But in most cases we think it would be found that a case having been presented and argued that involved any doubt or difficulty whatever, the justices hearing it would be able to state on the day of delivering their opinion, that they had conferred with their associates, and that the general conclusion was so and so.

Thus we think there can be, under such a course of procedure, no danger of decisions being made by three judges that would not have had the concurrence of the whole number had they all heard the matter together. By proceedings of this character, every suitor, rich or poor, or having a controversy, great or small, within the utmost practical limit, will be enabled to stand on an equality with every other in obtaining the judgment of the highest court of the land upon his case. We believe this right to be of paramount importance, and we believe that it ought not to be impaired or diminished further than the most absolute necessity may compel it to be curtailed. It can not be doubted by any one that the laws of the United States and the rights of all its citizens under the national authority should be construed and defended in the same sense and in the same way in every part of the Republic. But leaving final decisions in these respects to nine different courts in nine different parts of the country would be likely, we fear, to produce results quite different from and out of harmony with each other, which in the administration of the same universal law of the nation would be a reproach to the administration of justice and, in the long run, dangerous to the national unity.

In another aspect it is well to consider what may be the effect of the change proposed by the majority of the committee upon the speedy administration of justice in the various circuits. In several of them the judicial administration is now unable to keep up with the current business. In circuits thus situated the requirement that circuit judges and some of the district judges shall sit as a court of review will, we fear, result in a still greater accumulation of undisposed of causes in the circuits; and while it may possibly relieve the Supreme Court, it will by that much diminish the speedy disposal of causes in the courts below, and have the practical effect only of relieving a blockade in one quarter by enlarging it in many others. This we think can not be for the public interest.

With the greatest respect for the opinion of the majority of the committee, we submit herewith a scheme which we believe will enable the Supreme Court to keep fully up with its calendar and dispose of its business to the substantial satisfaction of all suitors and enable every

one entitled to appeal to its reviewing jurisdiction to be heard before it, and that at the same time will not delay the administration of justice in the different circuit courts of the United States.

All of which is respectfully submitted.

GEO. F. EDMUNDS.
JNO. J. INGALLS.
G. G. VEST.

OPOSED AMENDMENT TO THE BILL.

That for all the purposes of exercising its appellate jurisdiction, as such jurisdiction is now created and regulated by law, and as it may hereafter be regulated by law, any three of the justices of the said court shall constitute a quorum thereof.

That the justices of said court are hereby authorized and directed to make and carry into effect such general or special regulations as may from time to time be convenient for the hearing and determination of two or more causes in respect of which the appellate jurisdiction of said court is to be exercised, at the same time, to the end that the business of said court may be expedited.

That any body of such justices so proceeding with separate or simultaneous hearings may direct that any matter or cause coming before them which involves questions of unusual difficulty or importance shall be heard before all the judges, and in such case the hearing of such cause or question shall proceed in the same manner as if this act had not been passed.

That causes pending, or which may hereafter be pending, in said Supreme Court, in which is involved a question arising under the Constitution of the United States, shall be heard before the full court.

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51st Congress, 1st Session. | SENATE. | Report No. 1572.

IN THE SENATE OF THE UNITED STATES.

August 8, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6391.]

The Committee on Pensions, to whom was referred the bill granting a pension to Mrs. Margaret A. Jacoby, have examined the same and report:

The report made by the House committee is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6391) granting a pension to Margaret A. Jacoby, submit the following report:

That a similar bill passed both houses of the Forty-ninth Congress, but was vetoed by the President.

Your committee annex and approve the report of this committee of that Congress.

[House Report No. 896, Forty-ninth Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5201) granting a pension to Mrs. Margaret A. Jacoby, submit the following report:

That Sanford Jacoby, the husband of the claimant, enlisted April 20, 1861, in Company F, Seventieth Regiment New York Volunteers, and was discharged July 1, 1864. The soldier's claim for pension was submitted for admission December 1, 1884, and approved for total deafness and chronic diarrhea, granting him a pension for $5 per month, commencing July 1, 1864, and ending September 7, 1875, date of soldier's disappearance. The widow's application was filed July 17, 1885, and rejected by the Department August 6, 1885, upon the ground that fact, date, and cause of soldier's death were not shown, and inability of applicant to furnish the necessary proof.

The basis of the claim is that while the soldier was engaged in the battle of Gettysbugh, Pa., July 2, 1863, by reason of concussion from discharge of artillery he was rendered almost totally deaf, and also contracted chronic diarrhea, by reason of which he was totally disabled for military duty; that he never recovered, but has been totally deaf in right ear ever since and afflicted with chronic diarrhea.

Claimant testifies that when her husband returned from the Army in 1864 he was suffering from chronic diarrhea and deafness, contracted while in the service; that while residing with deponent, at Greene, Chenango County, N. Y., on or about the 7th day of September, 1875, he left and has never been heard from since; that she made diligent search and inquiry for him and that she has been unable to ascertain or learn anything about him, and that she verily believes he is now deceased; that he had been sick for a week before he left and had done no work; that he was despondent by reason of his said disabilities and did not seem to be in his right mind; that he was not then able to support deponent, and that she has not received any support from him since.

Dr. Charles M. Lawrence, of Port Jervis, N. Y., testifies that he treated soldier upon his discharge and return from the Army for chronic diarrhea and deafness, and has treated him at frequent intervals for said disabilities up to 1873, when he removed to Greene, Chenango County, N. Y., and that said diseases were likely to prove fatal.

Dr. Marcus M. Wood, of Greene, Chenango County, N. Y., testifies that he treated soldier for deafness and chronic diarrhea at intervals from 1873 to 1875, and that the diarrhea laid him up about half the time until the summer of 1875, when he left town. He was then suffering from both of those disabilities, which probably have proven fatal before this date (August 20, 1883). Have no doubt that his complaints were caused by exposure while in the service.

Jane Brown testifies that she is a sister of soldier's wife; has always lived near her said sister during her residence at Port Jervis, N. Y., which has been continuous since her marriage, except for six or seven years, when she lived at Greene, Chenango County, N. Y., during which time she was deserted by her husband, and since that time her sister has resided at Port Jervis, N. Y.

Adela Cunningham, Murates Beach, Henry P. Bates, and Lucius P. Clark all testify that the said Sanford Jacoby disappeared in 1875, and have never seen him since.

The decision of the Secretary of the Interior regarding the presumption of death is as follows:

"That cases arise in which it is impossible to obtain positive proof of the soldier's death, but the presumption of his death from causes connected with the service is so strong as to justify the allowance of a claim for pension made on behalf of his widow, children, or dependent relatives.

* * * * * * * *

"The presumption of common law is that a person who has been absent and not been heard from for seven years is dead. The presumption may properly be accepted under the pension law, and if, when last heard from, soldier was suffering from serious disease contracted or injury received in the line of duty in the service, it may be presumed that his death occurred from such cause if there is nothing in the circumstances to rebut such presumption."

Your committee are of the belief that the proofs, with the fact that the soldier has not been paid his pension since the date of his disappearance, justify the presumption that the soldier is dead, and that his death was the result of disease contracted while in service in the line of duty, and recommend that the bill do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1573.

IN THE SENATE OF THE UNITED STATES.

August 11, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2385.]

The Committee on Pensions, to whom was referred the bill granting a pension to Barney McArdle, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives (hereto appended) is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 2385) granting a pension to Barney McArdle, have considered the same and report:

On the 24th of November, 1888, the claimant filed an application in the Pension Bureau for pension under the Mexican war service pension act of 1887, declaring that he was residing at Savannah, Ga., when the "Irish Jasper Greens," under command of Capt. John McMahone, of the First Georgia Volunteers, left for Mexico; that he went with them, although not enrolled as a member of the company, because the said company was full. At Mobile, Ala., a member of the company, McCarthy by name, returned home, and he (the claimant) took McCarthy's place and performed the duties of a private soldier in the company thereafter. The regiment went to the Rio Grande to serve in General Taylor's army and for a time they were stationed in Mexico. The claimant declares further that he was in said service about eighteen months and was discharged at New Orleans.

Hon. William C. Oates and James W. Stokes testify to the claimant's identity, and also to the fact that he is a man of good character and worthy of full confidence.

William K. Gilmore, who was a member of the said regiment and who is now a pensioner under the Mexican war service act, swears that he was acquainted with the claimant, and personally knows that he served with the "Irish Jasper Greens" in the war with Mexico.

Bradford Johnson, also a pensioner, and formerly a member of the First Georgia Volunteers, Mexican war, fully corroborates the testimony of William K. Gilmore relative to the claimant's service.

The claimant's name is not borne on the rolls of the said company, and hence the Pension Bureau declines to allow his application.

The name of Robert McCarthy is borne on the rolls of Company C, First Georgia, Mexican war, and he is shown to have enlisted June 9, 1846, at Macon, Ga., and mustered out May 31, 1847, at New Orleans. This is presumed to be the man whose place the claimant is alleged to have taken in the company.

From the claimant's sworn statements, made at the time he made application for pension, it appears that he is now about seventy years old.

After a review of the facts, your committee are of the opinion that the claimant rendered the alleged service in the Mexican war, and the passage of the bill is therefore recommended.

O

51st Congress, 1st Session. | SENATE. | Report No. 1574.

IN THE SENATE OF THE UNITED STATES.

August 11, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5144.]

The Committee on Pensions, to whom was referred the bill (H. R. 5144) granting a pension to Jonas H. Keen, have examined the same, and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5144) granting a pension to Jonas H. Keen, submit the following report:

Jonas H. Keen, at the breaking out of the late war, was a resident of Tennessee, possessed of considerable real estate and valuable personal property. He was truly loyal to the cause of the Union, and because of his known loyalty was selected as one of the parties known as the East Tennessee bridge burners, who were charged with the destruction of the bridges of the East Tennessee, Virginia and Georgia Railroad, preparatory to the contemplated move of General Thomas's forces upon Knoxville, Tenn., in November, 1861. The authority for such destruction was obtained from General McClellan, then commanding the Army, and approved by the President. The undertaking was a perilous one, every one engaged in the same being fully cognizant of the results which would follow capture by the enemy, and it was only upon the promise made by General Thomas that his occupation of East Tennessee would follow immediately upon the destruction of the said bridge, which would afford protection to those engaged in the same, that a sufficient number of the citizens of that region could be induced to assist in the execution of that work.

On the night of November 8, 1861, the work was accomplished, but General Thomas did not come as expected. He had gone but a short distance when he was recalled by General Sherman, who commanded the department.

Thus were the bridge burners left to their own fate. Many were recognized by the bridge guards, and flight and seclusion became necessary to escape death. The claimant was one of that number. He sought refuge in the mountains, and kept concealed for a long time, suffering much from exposure, by reason of which he contracted rheumatism and erysipelas. The thought of being hung if caught by the Confederates also weighed heavily on his mind, and ever since he has been physically and mentally disqualified from the pursuit of his former avocation, that of farmer and miller. Not only did Keen contract disability from his participation in the work assigned to the loyal people of Tennessee by the officer commanding the United States forces about to enter East Tennessee, but he lost nearly all his property, excepting the land, at the hands of the Confederates.

Believing that the Government should take care of those who in the hour of peril make sacrifices for its preservation, whether in a military or civic capacity, and by so doing contract disability which impairs their ability to provide for themselves, as is so clearly established by the evidence filed in this case, your committee feel warranted to return the accompanying bill with the recommendation that it do pass, amended, however, by adding after the word "laws" in line 6, the words "and pay him a pension at the rate of twenty dollars per month."

O

51st Congress, 1st Session. | SENATE. | Report No. 1575.

IN THE SENATE OF THE UNITED STATES.

August 11, 1890.—Ordered to be printed

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5145.]

The Committee on Pensions, to whom was referred the bill (H. R. 5145) granting a pension to W. H. Obrien, have examined the same, and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5145) granting a pension to W. H. Obrien, submit the following report:

W. H. Obrien, or O'Brien, enlisted in November, 1862, while residing in Carter County, Tenn., as a soldier under Lieut. A. C. Foundren, then a recruiting officer for the Fourth Regiment Tennessee Cavalry. Claimant, in company with about eighty other recruits, under the leadership of one G. W. Gray, left home to join the command at Camp Nelson, Ky., some time in December, 1862. Their route was through a country held and occupied by the enemy for a distance of more than 130 miles. It became necessary to travel at night, and to secrete themselves during the day in the mountains to avoid capture. About the 1st of January, 1863, these men were attacked by a squad of Confederate cavalry, near Moccasin Gap, Scott County, Va. Claimant, with many others, was taken prisoner and put in jail at Knoxville, Tenn., and thence taken to Mobile, Ala.

After more than twelve months' confinement, claimant made his escape and scouted his way back home, where he remained secreted until about March, 1864, when he again made an attempt to make his way to the Federal lines at Knoxville, Tenn., which point he reached in April, 1864. He reported for duty, but he was so much disabled by reason of rheumatism and emaciation, due to his long confinement in Confederate prison and the exposure he was subjected to on his long journey after escape and hiding out to escape recapture, that he was rejected by the mustering officer. His name was never placed upon the rolls of the command in which he enlisted, hence has no title under the general pension laws.

The fact of claimant's enlistment and capture while en route to his command is shown by the testimony of Lieutenant Foundren, who also testifies that claimant, upon his return from Confederate prison, was rejected because of rheumatism contracted during captivity.

Treatment for rheumatism at return from prison and ever since is shown by the testimony of David Bell, M. D.

Claimant, although not regularly mustered into the service, was an enlisted man of the Army, and because of his enlistment was captured and exposed to hardships which resulted in his permanent disability.

There are numerous precedents which warrant your committee in reporting favorably on the accompanying bill, and therefore return the same with the recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1576.

IN THE SENATE OF THE UNITED STATES.

August 12, 1890.—Ordered to be printed.

Mr Blair, from the Committee on Woman Suffrage, submitted the following

REPORT:

[To accompany S. Res. 1.]

Mr. Blair, of the Committee on Woman Suffrage, to whom was referred Senate Resolution No. 1, being "joint resolution proposing an amendment to the Constitution of the United States, extending the right of suffrage to women," by direction of the majority of the committee, reports the same favorably, recommending its passage.

The joint resolution is in the following words:

JOINT RESOLUTION proposing an amendment to the Constitution of the United States extending the right of suffrage to women.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States; which, when ratified by three-fourths of the said legislatures, shall be valid as part of said Constitution, namely:

ARTICLE —.

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

SEC. 2. The Congress shall have power, by appropriate legislation, to enforce the provisions of this article.

Favorable reports have been submitted in former Congresses with views of the minority, to which we feel justified in referring for an exhaustive discussion of this important subject, to wit: Majority reports submitted by Senator Lapham in the Forty-seventh, Senator Palmer in the Forty-eighth, Senator Blair in the Forty-ninth and Fiftieth Congresses, and views of the minority submitted by Senator Brown in the Forty-eighth and Forty-ninth and by Senator Cockrell in the Fiftieth Congress.

Only very brief and general suggestions will be presented at this time.

Prejudice and custom have denied to woman the suffrage; but it is impossible to give a reason for the exercise of suffrage by man which does not apply with equal or with greater force in favor of the exercise of the suffrage by woman. There may be strong reasons why neither man nor woman should be permitted to vote. Free government, based upon the sovereignty of the individual man, is comparatively a new thing upon the earth. History has known scarcely a single real democracy. Despotisms and monarchies, absolute or limited, oligarchies and aristocracies, have been the forms in which government has been exerted throughout nearly the entire course of time. It is hardly too

strong an assertion to say that our own Government is the first which even approximately is based upon the popular will, as exerted by all mature male individuals of society. And there is scarcely greater difference between a proposition to give the suffrage to all men and women in the community, wholly abolishing all restrictions upon the right growing out of the distinction of sex, and our own present form of government based upon the suffrage of men only, than there is between our present forms and other so-called republics or democracies known in history before the establishment of ours.

In Athens there were hardly 20,000 citizens, and that great and conquering community, like Sparta, and all the so-called free governments of Greece, and of Rome, and of mediæval and modern Europe, were at best aristocracies. There may have been something like equality among the aristocrats, who constituted the governing power; but the gradations of rank were as distinct as between the nobility and the common people of England in the olden times.

Under our form of government we have taken the long and irreversible step which carries the sovereignty to the level of the general mass of the people, and therein is erected that primary authority which formulates rules of order and preserves society. Having done this, and by custom and law having vested the sovereignty in men alone (one-half the individuals who constitute society), we find ourselves confronted by the logic of our own precepts and action when we deny to women the like extension of the suffrage, which is the government. Upon what theory is the governing power placed in the hands of the masses of men, which does not of necessity include women also?

In the judgment of your committee, no sound reason can be given for the exercise of suffrage by man which does not apply with equal force in support of the equal right of woman to the same privilege. Voting is conceded to be an act of the mind, in the performance of which the body is merely an instrumentality. The object of voting in a free country, under the forms of a free government, is the creation and enforcement of law. Its only object is the preservation and prosperity of society as a whole, which is accomplished by the preservation of the life and liberty and property of the individuals who compose society. Women equally with men are indispensable to the constitution of society and to its perpetuation. Equally with men they have life, liberty, and property to create, defend, and transmit. Physically, the only distinction which is or can be claimed to be relevant to the discussion is that of physical strength, which, being somewhat less in woman than in man, creates necessity that for the benefit of her personal entity she should have a greater rather than a less participation in the governing power. Inasmuch as and so far as her physical powers of defense are the less, certainly she should be permitted to call in those intellectual and moral forces for her preservation, of which she is an equal or a larger participant than man.

Those who object to the exercise of the suffrage on the part of woman are those who most loudly and ostentatiously decant upon her superiority as a mental and spiritual being. All the questions which arise in society concern woman as much as man, there being no act of government but touches her in every conceivable relation. She is governed as much as he, and in those attributes of the soul which really constitute the governing power, under the same conditions, she is in no wise the inferior of man.

On former occasions your committee, in favorably reporting this joint resolution to the Senate, has argued at length the reasons which have

induced them to recommend the adoption of the resolution and has endeavored to show that woman has—

I. Equal or greater occasion for the beneficent application of the principles of free government to her condition in society; and

II. That she is quite the equal of man in those powers of mind which are indispensable to the comprehension and right decision of questions which concern society, and has adequate physical capacity to cast an honest ballot, to be fairly counted.

Further, we report this resolution favorably not merely because of our belief in the abstract right of women to vote under any form of government where that right belongs to men, but upon the broader ground that the spirit of the Constitution under which we live requires that, however individual members of your committee or of the legislative power may differ as to the right or propriety of the exercise of the suffrage by woman, those who do believe in woman suffrage should be given the opportunity, under the forms of the Constitution, to seek its amendment, so that it may confer upon her that privilege which, under the existing construction of the Constitution, is denied to her.

For many years the subject has been incessantly and quite generally agitated by a large number of the greatest and best of men, as well as women, in all parts of our country, to say nothing of the rapid growth of the same sentiment in other parts of the world.

In fact, the enfranchisement of woman seems to force itself irresistably upon the minds of those who reflect upon the principles of liberty and their application to human society. One of the States of the Union has just been admitted with a constitution in which the suffrage is guarantied to all without distinction of sex. For nearly a quarter of a century the right has been exercised by women in Wyoming with the most favorable results. Probably the dominating sentiment to-day, if it could find free and impartial expression after intelligent discussion by both men and women, in many States, would confer upon her the right to vote equally with man.

Now, this great sentiment, even if it be not a majority sentiment of the whole country, demanding, as it has, Congress after Congress, the submission of the proposed amendment to the action of the legislatures of the States, has, in our judgment, a right to be heard in that forum where alone woman can try her cause. To deny the submission of this joint resolution to the action of the legislatures of the States is in our view analogous to the denial of the right of justice in the courts. It is to say that no plaintiff shall bring his suit; no claimant of justice shall be heard; and whatever may be the result to the friends of woman suffrage when they reach the legislatures of the States it is, in our belief, the duty of Congress to submit the joint resolution and give them the opportunity to try their case.

We therefore report the resolution favorably and recommend its passage.

HENRY W. BLAIR,
(For the majority of the committee.)

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51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1577.

IN THE SENATE OF THE UNITED STATES.

AUGUST 12, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 2586.]

The Committee on Pensions, to whom was referred the bill (S. 2586) granting a pension to Andrew J. Elliott, have examined the same and report:

The beneficiary was a private in Captain Taylor's company, First United States Artillery, and served in the war with Mexico. His military record is verified, and under the general law pensioning soldiers who served in the Mexican war he was allowed $8 per month. He is now totally blind and quite lame. He depends upon charity and an allowance of $2 a week from the poor fund of his county.

The bill gives him $30 a month, and in view of the fact that he is blind, lame, without means, far advanced in years, the committee believe that his is a case which Congress may very properly relieve.

The bill is reported favorably, with a recommendation that it do pass.

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1578.

IN THE SENATE OF THE UNITED STATES.

AUGUST 12, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 987.]

The Committee on Pensions, to whom was referred the bill (S. 987) granting a pension to Mary L. Miller, have examined the same and report:

This is a bill to pension Mary L. Miller, mother of Warwick W. Miller, who was a private in Company F, Second Wisconsin Regiment.

The soldier enlisted May 18, 1861, was discharged June 28, 1864, and died September 20, 1870.

After his death the widow was pensioned and her minor child. The widow drew a pension until she was remarried, and the child until she arrived at the age of sixteen.

It appears that while the soldier was in the service he contributed to his mother's support. In affirmation of this the committee have the testimony of two witnesses, and he continued to aid her so far as he could after his marriage and until his death. When he died she had no means of support, and from that time to the present she has struggled to obtain a living by her own exertions, with very poor success. At the present time she is far advanced in years, is in delicate health, and being without resources from relatives or friends she is entirely destitute of income.

Her case corresponds with some of the needy and meritorious cases that Congress has sometimes recognized, and the committee do not think it will be any excess of liberality on the part of the Government to allow her the small pension provided for in the bill, which is reported favorably, with a recommendation that it do pass.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1579.

IN THE SENATE OF THE UNITED STATES.

AUGUST 12, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany S. 4323.]

The Committee on Post-Offices and Post-Roads, to whom was referred Senate bill S. 568 and 2768, have considered the same, and report in lieu thereof a bill which is submitted herewith and entitled "A bill to amend certain sections of the Revised Statutes relating to lotteries, and for other purposes" and recommend that the substitute do pass.

The bill is based on the conceded power of the Government to determine what character of matter may be sent through the mails; and its purpose is to protect the general welfare and the morality of the people against the pernicious effects of lotteries. The purpose here expressed is one of great public concern, and the duty underlying it was very forcibly expressed in the opinion of the Supreme Court of the United States in the case of Phalen *vs.* Virginia, 8th Howard, page 168 (of opinion), in the following language, viz:

> The suppression of nuisances injurious to public health or morality is among the most important duties of Government. Experience has shown that the common forms of gambling are comparatively innocuous when placed in contrast with the wide-spread pestilence of lotteries. The former are confined to a few persons and places, but the latter infests every class; it preys upon the hard earnings of the poor; it plunders the ignorant and the simple.

This case sustains both the power and duty of Government to interfere, by such means as the bill which the committee herewith reports, for the protection of the morals and well-being of the people.

The policy of the bill is in perfect harmony with the action of nearly every State in the Union. Lotteries have been and are under the almost universal ban of the States. Of the forty-two States only three have failed to denounce lotteries and endeavor to protect the citizens from their baneful effects.

The Committee adopt the House report, which is as follows:

> The intent of Congress to exclude letters, circulars, and other matter from the mails which relate to lotteries is evidenced by the several acts heretofore passed in connection with this matter. It is also evident that it was the intent of Congress to provide the Postmaster-General with the authority and the means to execute the several statutes. Experience, however, has demonstrated that past legislation is inadequate to this object, and that without further and more forcible legislation the use of the mails by lottery companies will continue to grow in a greater ratio than it has in the past. Nearly all of the small concerns that a few years ago prosecuted lottery business in the different States of the Union have gone out of existence and given place to the Louisiana State Lottery Company, the giant monopoly which not only works over the fields heretofore occupied by the smaller companies, but has extended its business until it has reached enormous and alarming proportions. It is estimated that this company mails through the Washington post-office, in the District of Columbia, probably not less than 50,000 letters per month, and that its mail deposits in the city of New Orleans will amount to five or ten times as much more. All this matter sent out under cover of the seal contains lottery circulars and lists of lottery draw-

ings, all of which is declared to be non-mailable under the law. But it goes without let or hindrance, because under existing statutes it seems impossible to obtain proofs of their true character. The object of the proposed bill is to provide further opportunities for obtaining information upon which prosecutions for frequent, and indeed unlimited, violations of the law may be more successful.

The power of the courts and of the Postmaster-General over lottery mails of all kinds is contained in three sections of the Revised Statutes, with the acts amendatory thereto. The first (section 3929, as amended by the act of July 12, 1876, section 2, 19 Stats., page 90) provides that "no letter or circular concerning lotteries, so-called gift concerts, or other similar enterprises, offering prizes, or concerning schemes devised and intended to deceive or defraud the public for the purpose of obtaining money under false pretenses, shall be carried in the mail."

To prevent this, a fine of not more than $500 and not less than $100, with the cost of prosecution, was provided for against any person who shall knowingly deposit or send anything to be conveyed by mail in violation of this section. Frequently, since the enactment of this law, different Postmasters-General have sought information and advice from the Attorneys-General with a view of ascertaining the full extent of the power of the Postmaster-General over lottery mails under the provisions of the section just quoted. The responses to these inquiries have been uniform to the effect that the statute, partly quoted above, is a penal statute which can be enforced by the courts only, and which conveys no power to the Postmaster-General to seize, detain, or withhold from transmission and delivery any ordinary letter, or packet, not *known* by him to relate to lotteries. Attorney-General Devens, in an opinion addressed to Postmaster-General Key, under date of April 30, 1878, held that the Postmaster-General is not authorized, under section 3894, Revised Statutes, to direct postmasters to withhold from the mails letters suspected to contain advertisements of lotteries; and, furthermore, that section 3895, Revised Statutes (which relates to the seizure of letters under certain circumstances), does not constitute a postmaster a seizing or detaining officer of suspected letters, and that it confers no power to seize or to detain, but merely directs the disposition to be made of letters after they *are* seized or detained for violations of statutory provisions. (Opinions of Attorneys-General, vol. 16, p. 5.)

Accepting this construction of the law as correct (and it has since been confirmed by Attorney-General Garland, and perhaps others), it is evident that the Postmaster-General's ability to purge the mails of this class of matter, although it is declared to be non-mailable, is limited to unsealed circulars and similar matter not protected by the sanctity of the seal, and which for that reason can be inspected. If such unsealed matter were at any time found in the mail the only disposition that could be made of it is to withold it from delivery and treat it as dead matter, and the offending party—in other words, the person who deposited the contraband matter—could only be reached by the law when he could be identified as the person who deposited it in the mail. To obtain evidence as to the character of matter covered by a seal, and suspected to relate to lotteries, it is conceded that the power of the courts would have to be invoked through the medium of search warrants, for the highest legal tribunal of the country has decided, in one noted case, that of *Ex parte* Jackson (6 Otto, p. 727), that "the constitutional guaranty of the right of the people to be secure in their papers against unreasonable searches and seizures extends to their papers thus closed against inspection, wherever they may be. Whilst in the mail they can only be opened and examined under like warrant, issued upon similar oath or affirmation, particularly describing the thing to be seized, as is required when papers are subjected to search in one's own household. No law of Congress can place in the hands of officials connected with the postal service any authority to invade the secrecy of letters and such sealed packages in the mail; and all regulations adopted as to mail matter of this kind must be in subordination to the great principle embodied in the fourth amendment of the Constitution."

Thus it is evident that no law which Congress can pass would stand the test of the courts if it authorized any executive officer to open, detain, or withhold letters upon suspicion that they violated the law concerning lotteries, or other statutes relating to any other offense; nor is it proposed by the substitute bill presented herewith to extend the authority of the Postmaster-General, or to render insecure, by reason of unlawful searches or seizures, any correspondence of any kind whatever. One of the main benefits to be derived by the substitute bill, if it shall become a law, over and above that contained in existing statutes, is the provision which makes the act of mailing lottery letters and circulars a continuous offense, triable by the court in any jurisdiction through which they may pass or into which they may go. About all the written and printed matter relating to lotteries which now passes through the mail is deposited in the post-offices at New Orleans and Washington, the great bulk of it being mailed from the former city. Convictions under existing law, even where the proofs can be produced, are not only difficult, but are believed to be next to impossible, in the State of Louisiana, owing to the extended and diversified power of the Louisiana State Lottery Company, which it is claimed reaches juries and defeats

the ends of justice. It is not necessary to add that jurisdiction of the offense of mailing is now confined to the district including the post-office of deposit. By the provisions of the substitute bill, a letter mailed at New Orleans may be traced into any other State and identified by its delivery, so that if the act of mailing can be located upon any individual or individuals at said city, the offense may pass under the review of courts at the place of delivery, thus securing a fair trial in localities where the influence of the lottery is not established.

Other advantages to be derived from the provisions of the first section of the substitute bill are the extension of the penalty for the mailing of letters by the public to lottery companies, instead of confining it to the mailing of them by such companies to the public, as is now practically the case; the enumeration of the several things, as checks, money, etc., for the purchase of lottery tickets, the mailing of which is prohibited, thus bringing the force of the law to bear upon those whose contributions keep these swindling enterprises alive, and decreasing the motive to violate the law by increasing the number who are likely to be punished for such violation. A bold and daring company, abounding in subterfuges, accustomed to violating the law, and skilled in the art of avoiding detection, will not hesitate to commit innumerable offenses, while the citizen who respects the law, or is afraid of its majesty, will hesitate to take the chances of prosecution. Hence, as soon as it is known that the mailing of a letter to a lottery company which contains money or check for the purchase of its tickets is an offense against the law, punishable by fine and imprisonment, the number willing to take the risk will rapidly diminish.

The greater benefit, if possible, will be the closing of the mails to newspapers which contain lottery advertisements and lists of prizes, thus partially cutting off communication between the lottery and its customers, and reducing the number of its victims. In some States such advertisements are prohibited by State laws, and but little if any opposition is thereby provoked. Many of the ablest and most influential journals now advocate the denial of mail facilities to any publisher who will admit a lottery advertisement to his columns, and it is believed that an enactment by Congress to this effect will meet with the almost unanimous approval of papers of known standing and ability.

Another important feature, in a legal sense, of the first section of the substitute bill, is that violations of its provisions may be proceeded against by indictment or information, and that the extent of the punishment is within the discretion of the courts, and they can always be relied upon to deal properly with violators of the law.

Sections 3929, Revised Statutes, relating to registered letters, and 4041, Revised Statutes, relating to money-orders, authorize the Postmaster-General "upon evidence satisfactory to him that any person is engaged in conducting any fraudulent lottery, gift enterprise," etc., to instruct postmasters at any post-office at which registered letters or money-orders may arrive addressed to, and intended for, persons so engaged as aforesaid, to withhold the delivery of the one and the payment of the other. It will be observed, in these cases, that the law does not require the Postmaster-General to know anything of the contents of the registered letters, nor to be advised as to the purpose to be served by the postal money-orders, but gives him the power, whenever he is satisfied that the one is addressed, and the other made payable, to a person engaged in conducting schemes to obtain money by false means or false and fraudulent pretenses, to enforce its provisions, as stated above. It is not necessary, therefore, that he should break a seal, or cause a seal to be broken, or to do any other act of a questionable or prohibited kind; but simply permits him to cut off the delivery of said registered letters because they are presumed to contain money, and the payment of money-orders because they are presumed to have been sent for the purchase of lottery tickets.

Acting under the authority contained in these two sections, a former Postmaster-General issued an order, which operated particularly upon the postmaster at New Orleans, prohibiting the delivery of registered letters, and the payment of money-orders to lottery companies, and especially to M. A. Dauphin in his several capacities as a manager of the Louisiana State Lottery. That order has been strictly enforced since the date of its issuance, and is now enforced in all the post-offices of the country, but it does not accomplish the objects that Congress evidently had in view.

The Louisiana State Lottery Company met the order of the Postmaster-General by announcing that thereafter registered letters and money-orders could be sent to the New Orleans National Bank, and thereupon the Postmaster-General issued a subsequent order prohibiting the delivery of registered letters and the payment of money-orders to said bank. The bank sought an injunction of the court to restrain the postmaster at New Orleans from enforcing this order, which was granted, and from that time until the present such deliveries and payments have been made to that bank, without let or hindrance, for the reason that it was believed that the authority of the Postmaster-General, under the existing provisions of law, was not sufficient to justify him in declaring that a delivery to the bank was a delivery to the lottery company, and such a delivery as was prohibited by law.

The substitute bill proposes to cure these defects by including within its provisions any agent or representative of the lottery company acting as an individual, or as a firm, bank, corporation, or association of any kind, and declaring that the published advertisement by a lottery concern that remittances for it may be made to "any other person, firm, bank, corporation, or association * * * shall be held to be an acknowledgment of the existence of said agency by all the parties named therein." If enacted, it would permit the Postmaster-General to deny to any person, bank, or other concern, that acts as an agent of the lottery company, the benefits of the registry and money-order systems, and would result in compelling the lottery company to obtain remittances through express companies or other similar channel.

It is not the object of this report to debate the question as to whether lottery companies are inimical to public morals or of immoral tendency. The day is passed for such discussion. It is admitted, or probably not seriously denied, that the existence of such swindling schemes is promotive of the spirit of gambling, and results in serious disaster to many citizens. That Congress is willing to provide any remedy for the correction of these evils, within the letter and spirit of the Constitution, will be treated herein as an accepted fact; and the committee have, therefore, proceeded in its work with the view of providing a law which it is believed will place within the reach of executive officers, and within the jurisdiction of the courts, every means that can be adopted to crush out the baleful influences of these concerns, whether chartered by States or organized and protected outside of the laws.

Your committee append and make a part of this report the opinion of the Attorney-General of the United States recently submitted to them, done at the request of the committee:

DEPARTMENT OF JUSTICE,
Washington, D. C., July 21, 1890.

DEAR SIR: Yours of July 16, inclosing two Senate bills, Nos. 2768 and 568, in reference to lotteries, was duly received, and I have given such examination to these bills as my other duties would permit. I have not, of course, been able to give them that exhaustive examination that would enable me to speak with confidence of the constitutional question. At the same time I am unable to find that the provisions of these bills conflict in any way with the decisions which have been made upon this class of questions. In *Ex parte* Jackson, 96 U. S., 727; in Dauphin *against* Key, McArthur & McKay's Reports Supreme Court of the District of Columbia, 203; and in The New Orleans National Bank *against* Marchant, 18 Federal Reporter, 841, legislation of this character has been upheld, and by these decisions it seems to be settled that it is competent for Congress to authorize the Postmaster-General to refuse the use of the mails to any persons engaged in business of this character. The reason why the decision was against the postmaster in the last-cited case was that it was held by Judge Pardee that the Postmaster-General had failed to make the finding of facts which was necessary in order to give him jurisdiction to make the order denying such use of the mails. These decisions were made with reference to the statutes as they substantially now exist.

The proposed section, No. 3894, goes further, the principal addition being the provision making the mailing of the letter, circular, etc., a continuous offense to and including the place of delivery. I think there can be no question of the power of Congress to enact this provision, or at least there can be no question that it is competent for Congress to make the offense punishable as well in the district in which the postoffice of destination is situated as that wherein the unlawful matter is mailed. The decision of the Supreme Court, at the last term, in the case of Charles Palliser, appellant, against the United States, No. 1538, is directly in point upon this question. In that case Palliser had mailed from New York, directed to the postmaster at Black Hall, Conn., a certain paper wherein he requested that postmaster to receive and distribute literature for his firm, giving credit for the postage, which, he Palliser, promised to pay when the literature was distributed. The question arose whether this was a crime punishable in the district of Connecticut, the mailing having been done, as stated, in New York. The Supreme Court held that it was. The inference from the decision is that he might be tried and punished either in New York or Connecticut, but the decision is direct that he might be tried and punished in Connecticut. Whether it is competent for Congress to make the offense triable and punishable in an intermediate district is perhaps not so clear.

Sections 3929 and 4041, as proposed, seem to me to be covered in principle by the decisions above referred to.

I think, also, the decisions in principle cover the provisions of the bill No. 568.

Very respectfully,

W. H. H. MILLER.

Hon. PHILETUS SAWYER,
United States Senate.

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51st Congress, 1st Session. | SENATE. | Report No. 1580.

IN THE SENATE OF THE UNITED STATES.

August 12, 1890.—Ordered to be printed.

Mr. Quay, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany S. 4290.]

The Committee on Public Buildings and Grounds, to whom was referred Senate bill No. 4290, entitled a bill making appropriation for heating apparatus, elevators, and approaches for the public building at Pittsburgh, Pa., have investigated the same and respectfully report:

That the public building at Pittsburgh, Pa., for the accommodation of the post-office and other public offices, has been in process of construction since 1873 at a cost of some $1,800,000 and will be completed during the month of November of the present year. That when the estimates of the Treasury Department upon which to base the final appropriation for its completion were made up and submitted to Congress the amount necessary to defray the expense of elevators, heating apparatus, and perfecting approaches to the building, viz, $110,000, was omitted. That the expenditure of this money is necessary before the building can be occupied, and that the public are incommoded and the public business embarrassed and delayed by the insufficiency of accommodation in the buildings now in use.

They therefore recommend the passage of the bill.

Official communications from the Secretary of the Treasury, the Supervising Architect of the Treasury, the postmaster at Pittsburgh, the Chamber of Commerce of Pittsburgh, and financial and business institutions and citizens of that city, showing the necessity for the early enactment of this legislation, are hereto appended and made part of this report.

APPENDIX.

Treasury Department, Office of the Secretary,
Washington, D. C., June 12, 1890.

Sir: I have the honor to request that an appropriation of $110,000 be made at this session of Congress to provide for the heating apparatus, approaches, and elevators for the United States court-house and post-office at Pittsburgh, Pa., in addition to the $1,800,000 heretofore fixed by acts of Congress as the limit of cost of said building.

In this connection I may state that the limit of cost of the site and building has several times been increased until finally established at $1,800,000, on account of which, appropriations have at different times been made which aggregate $1,550,600, and an appropriation of $249,000, the balance under said limit of cost, has been asked in the annual estimates of appropriations now under consideration by Congress.

The estimates which have been approved in accordance with law under the amount heretofore fixed as the limit of cost, did not include the items of heating apparatus, approaches, and elevator service for the building for which an additional appropriation of $110,000 is above requested, as it is desired that this branch of the work shall be placed under contract as soon as possible in order to secure the completion of the building ready for occupation by the post-office on or before December, 1890.

Respectfully yours,

GEO. S. BATCHELLER,
Acting Secretary.

Hon. LEVI P. MORTON,
President of the Senate.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., June 12, 1890.

SIR: I have the honor to request that an appropriation of $110,000 be made at this session of Congress to provide for the heating apparatus, approaches and elevators for the United States court-house and post-office at Pittsburgh, Pa., in addition to the $1,800,000 heretofore fixed by acts of Congress as the limit of cost of said building.

In this connection, I may state that the limit of cost of the site and building has several times been increased until finally established at $1,800,000, on account of which, appropriations have at different times been made which aggregate $1,550,600 and an appropriation of $249,000, the balance under said limit of cost, has been asked in the annual estimates of appropriations now under consideration by Congress.

The estimates which have been approved in accordance with law under the amount heretofore fixed as the limit of cost did not include the items of heating apparatus, approaches, and elevator service for the building, for which an additional appropriation of $110,000 is above requested, as it is desired that this branch of the work shall be placed under contract as soon as possible, in order to secure the completion of the building ready for occupation by the post-office on or before December, 1890.

Respectfully yours,

GEO. S. BATCHELLER,
Acting Secretary.

Hon. THOMAS B. REED,
Speaker of the House of Representatives.

TREASURY DEPARTMENT, OFFICE OF THE SUPERVISING ARCHITECT,
Washington D. C., August 7, 1890.

SIR: In connection with office letter of the 1st instant, addressed to you, in regard to the necessity for the passage of the bill recently introduced by you for an additional appropriation of $110,000 for the United States court-house and post-office building at Pittsburgh, Pa., I have the honor to inclose herewith copy of letter dated the 6th instant, addressed to this office by the postmaster of Pittsburgh, in which you will find a further statement as to the necessity for said appropriation being made at an early day in order to permit the most speedy prosecution and earliest possible completion of the post-office portion of the building.

Respectfully yours,

JAS. H. WINDRIM,
Supervising Architect.

Hon. MATTHEW S. QUAY,
United States Senate.

PITTSBURGH, PA., POST-OFFICE,
August 6, 1890.

MY DEAR SIR: I take the liberty of calling your attention to the bill now before Congress, providing for an appropriation of $110,000 for heating apparatus, approaches, elevators, etc., for the new United States court-house and post-office at this place.

The necessity of the passage of this bill is no doubt as obvious to you as to the writer. Every effort is being put forth at this end of the line to push the building to completion, and should unnecessary delay occur in the appropriation of the necessary moneys for this purpose we will be compelled to remain in our present cramped, uncomfortable, and inadequate quarters for an indefinite length of time.

The fact that public business will suffer as long as this condition of affairs exists is indeed sufficient argument for the immediate passage of this measure. It is not a question in which the citizens of the city of Pittsburgh alone are interested, but one that directly affects every business man in western Pennsylvania, eastern Ohio, and a section of West Virginia whose mails are distributed and transferred at this office, and who are subjected to unnecessary and vexations delays because of a lack of space and the proper facilities for conducting the public business.

The request as presented by them would indeed be stronger, if anything, than I have made this. I trust action on their part will be unnecessary.

I dislike to trouble you in these matters, but as a public officer, representing the interests mentioned, it becomes my duty. Will you kindly give the matter your attention, and do all in your power to have this bill passed at an early date?

Very respectfully,

JACOB S. MCKEAN,
Postmaster and Custodian of Public Buildings.

Hon. JAMES H. WINDRIM,
Supervising Architect, Washington, D. C.

TREASURY DEPARTMENT, OFFICE OF THE SUPERVISING ARCHITECT,
Washington, D. C., August 1, 1890.

SIR: In compliance with your oral request, I have the honor to submit the following statement in regard to Senate bill 4290, introduced July 29, 1890, by you, to provide for an appropriation of $110,000, to enable the Secretary of the Treasury to provide heating apparatus and the necessary work on the approaches for the United States court-house and post-office at Pittsburgh, Pa.:

The postmaster of Pittsburgh, the Post-Office Department, and the exigencies of the public service have earnestly urged the completion of said building at the earliest possible date, in order that proper accommodations for the postal business of said city can be made available before winter.

The Board of Trade and the merchants of Pittsburgh have repeatedly made demands that said building shall be completed as soon as possible, in order that they and all other citizens may, as speedily as possible, be afforded proper postal facilities.

From personal observation I know that the available working space of the premises now occupied as a post-office is inadequate to the needs, and inconvenient for the proper discharge of the postal business of said city.

An officer of this Department was sent to Pittsburgh for the special purpose of examining and reporting upon the possibility of advancing the work on the building so as to secure the completion of the first floor and basement of the building by December next; and this office has been pushing the work to secure such results, and to afford relief to the postal service in the new building.

I was under the impression that the necessary amount of money had been provided to secure the entire completion of the building, but find upon an examination of the detailed estimate that the items of heating apparatus, elevators, and approaches were not included therein at the time of the approval of the same, and, therefore, the facts showing the necessity for the additional appropriation of $110,000 were not developed until a date subsequent to the preparation and transmission of the Annual Estimates of Appropriations.

In this connection I inclose herewith copies of letters addressed by the Secretary of the Treasury and from this office, as follows: Letter dated June 12, 1890, addressed to the President of the Senate; letter dated June 12, 1890, addressed to the Speaker of the House of Representatives; and letter dated June 13, 1890, addressed by me to the chairman of the Committee on Appropriations of the House of Representatives; and letter dated July 28, 1890, addressed by me to you, which recite and recapitulate the facts establishing the necessity for said additional appropriation.

I feel very much disappointed in this matter, and hope that you may be able to so present the case as will secure the passage of the bill introduced by you.

Respectfully, yours,

JAS. H. WINDRIM,
Supervising Architect.

Hon. MATTHEW S. QUAY,
United States Senate.

PITTSBURGH, PA., POST-OFFICE,
August 7, 1890.

DEAR SIR: Eighteen years ago it was acknowledged that the postal facilities in this city were entirely inadequate, and an effort on the part of our citizens resulted in an act of Congress being passed March 3, 1873, appropriating $300,000 for the pur-

chase of a site for a new building. To this amount the citizens of Pittsburgh added $46,176.30.

The work dragged along slowly until 1880, when by acts of May 24 and June 16 the cost of building was limited to $750,000 and $75,000 was appropriated; in 1881 an additional $100,000 was appropriated; in 1882, $200,000; in 1883, $125,000, and in 1885 the limit was extended to $1,500,000. In 1886 and 1887 there were annual appropriations of $250,000 granted; other appropriations were made in 1888 and 1889, and the limit finally extended to $1,800,000 and the building is now nearing completion.

The balance under said limit of cost being $249,000 has been asked in the annual estimates of appropriation now under consideration by Congress. An additional appropriation of $110,000 to provide for the heating apparatus, approaches, and elevators is now necessary to complete the building, and this has been requested by the Hon. Secretary of the Treasury, and unless favorably acted upon the building will remain uncompleted until after another session of Congress.

It is scarcely necessary to enlarge upon the urgency of expediting work on this building. Our present quarters will not begin to accommodate the force of employés stationed in it, and the business interests of the city are suffering thereby.

In 1880, when the actual work on the new building was started, we had 95 employés at work in the post-office, 38 of whom were letter-carriers; we now have 285, the letter-carriers numbering 128. The actual work of the office has increased 500 per cent.

The old building is dark, dirty, and without ventillation, and totally unfit for post-office work, yet 286 men and women are packed into it so closely that the work can not be performed, and a large per centage of our office force are constantly sick and many are breaking down.

During the last five years the business and population of Pittsburgh have shown a phenomenal in crease, and the postal service of this entire vicinity is retarded and injured by our lack of facilities, this being one of the most important mail-distributing points in the United States.

Our citizens have been highly pleased by the prospects of our occupying the new post-office building this year, and further delay will arouse just dissatisfaction and indignation.

I trust every effort will be made to secure the full appropriation necessary to the finishing of the new building.

Yours, very truly,

JAMES S. MCKEAN.

Hon. M. S. QUAY,
United States Senator, Washington, D. C.

CHAMBER OF COMMERCE OF PITTSBURGH,
Pittsburgh, Pa., August 9, 1890.

DEAR SIR: At a meeting of the Chamber of Commerce held this day, the paper annexed was unanimously adopted, with instructions to the superintendent to send a copy to you.

Respectfully, yours,

G. FOLLANSBEE,
Superintendent.

Hon. MATTHEW QUAY,
United States Senate, Washington, D. C.

CHAMBER OF COMMERCE,
Pittsburgh, Pa.

Whereas we have just learned that the sum of $110,000 recommended by the Secretary of the Treasury to provide heating apparatus, approaches, and elevators for the new Government building in this city still remains unacted on by Congress:

Resolved, That we hereby appeal to our members of the House and Senate to urge on their respective colleagues the importance of this matter.

In support of our appeal we call attention to the fact that, in case the amount recommended by the Secretary is not appropriated at this session, it will involve a delay of more than a year in the completion of the building.

We call attention to the further fact that Pittsburgh has grown beyond the accommodations furnished in the present quarters, the Government offices are scattered, and the post-office is crowded far beyond its capacity, and business is hampered and delayed for want of proper space and convenience to handle the vast mail passing through the office.

The superintendent is hereby instructed to send a copy of this to our members of the House and Senate from this State and a copy to members of the Appropriation Committees of both houses of Congress.

[Telegram.]

PITTSBURGH, PA., *August* 8.

Hon. M. S. QUAY,
Washington:

The public needs require the completion of the post-office at the earliest possible date, and we hope you will spare no labor to have the appropriation made without delay.

CHAS. E. SPEED.

[Telegram.]

PITTSBURGH, PA., *August* 8.

Hon. M. S. QUAY,
Washington:

The public convenience makes the necessity for the completion of the new post-office urgent.

T. H. GIVEN,
Cashier Farmers' Deposit National Bank.

[Telegram.]

PITTSBURGH, *August* 9.

Hon. M. S. QUAY,
Washington:

Business necessity demands the prompt completion of Government building. Please urge the making of appropriation.

JOS. HORNE & CO.

[Telegram.]

PITTSBURGH, *August* 9, 1890.

Hon. M. S. QUAY,
Washington, D. C.:

We respectfully urge that appropriation be made to complete Government building. Business necessity demands it.

THOS. C. JENKINS.

[Telegram.]

PITTSBURGH, *August* 9, 1890.

Hon. M. S. QUAY,
Washington, D. C.:

More money is required to complete Government building, and we request that you urge additional appropriation.

MARK W. WATSON,
President Exchange National Bank.

[Telegram.]

PITTSBURGH, *August* 9, 1890.

Hon. M. S. QUAY,
Washington, D. C.:

The business interests of this city suffer by reason of the delay in the completion of our public buildings.

JNO. S. SCULLY,
Diamond National Bank.

[Telegram.]

PITTSBURGH, *August* 9, 1890.

Hon. M. S. QUAY,
Washington, D. C.:

We would respectfully but earnestly urge the necessity of the appropriation to finish post-office building.

PEOPLES' NATIONAL BANK.

[Telegram.]

PITTSBURGH, *August* 9, 1890.

Hon. M. S. QUAY,
Washington, D. C.:

We regard the necessity as imperative that appropriation for completing Government building should pass.

UNION NATIONAL BANK.

[Telegram.]

PITTSBURGH, *August* 9, 1890.

Hon. M. S. QUAY,
Washington, D. C.:

We would earnestly request that a sufficient appropriation be made at once to complete our Government building.

Respectfully yours,

COMMERCIAL NATIONAL BANK.

[Telegram.]

PITTSBURGH, *August* 9, 1890.

Hon. M. S. QUAY:

There is no doubt but that the entire community are suffering from insufficient appropriation for the post-office building, and I heartily join in the request that you will urge its immediate completion.

ROBERT J. STOREY,
Cashier Anchor Savings Bank.

[Telegram.]

PITTSBURGH, *August* 8, 1890.

Hon. M. S. QUAY,
Washington, D. C.:

Secure appropriation for post-office. Public convenience demands completion.

C. J. WADE,
Cashier National Bank of Commerce.

[Telegram.]

PITTSBURGH, *August* 8, 1890.

Hon. M. S. QUAY,
Washington, D. C.:

Please use best effort to have appropriation made to complete Government building.

ALLEGHENY NATIONAL BANK.

[Telegram.]

PITTSBURGH, *August* 8, 1890.

Hon. M. S. QUAY,
Washington, D. C.:

Please urge the appropriation for post-office building. It is of utmost importance that it be completed without delay.

JAS. H. WILLOCK,
President Second National Bank.

[Telegram.]

PITTSBURGH, *August* 8, 1890.

Hon. M. S. QUAY,
Washington, D. C.:

We would respectfully request that you urge the necessity of new appropriation for Government building here.

CENTRAL BANK.

[Telegram.]

PITTSBURGH, *August* 8, 1890.

Hon. M. S. QUAY,
Washington, D. C.:

We respectfully urge you to secure appropriation for the completion of our Government building so badly needed here.

J. H. HAYES,
Keystone Bank.

[Telegram.]

PITTSBURGH, *August* 8, 1890.

Hon. M. S. QUAY:

Completion of post-office building here absolutely necessary. We respectfully ask your aid.

W. STEINMEYER.
Cashier Third National Bank.

[Telegram.]

PITTSBURGH, *August* 8, 1890.

Hon. M. S. QUAY,
Washington, D. C.:

Please do all in your power to have the appropriation increased to complete new post-office building.

GEO. J. GORMAN,
President Mechanics' National Bank.

[Telegram.]

PITTSBURGH, *August* 8, 1890.

Hon. M. S. QUAY,
Washington, D. C.:

Would respectfully urge the appropriation for Government building here.

ROSS W. DRUM,
Cashier Tradesmen's National Bank.

[Telegram.]

PITTSBURGH, *August* 8, 1890.

Hon. M. S. QUAY,
Washington, D. C.:

Would respectfully urge the appropriation applied for to complete the United States building in this city, as the necessity for the completion is great.

CITIZENS' NATIONAL BANK,
By GEO. A. BERRY, *President.*

[Telegram.]

PITTSBURGH, *August* 8, 1890.

Hon. M. S. QUAY,
Washington, D. C.:

Would kindly ask your assistance in procuring the necessary appropriation to finish Government building here.

A. GERTZINGER,
President German National Bank.

[Telegram.]

PITTSBURGH, *August* 8, 1890.

Hon. M. S. QUAY,
Washington, D. C.:

Would respectfully urge the appropriation necessary to provide heating apparatus, etc., for new Government building.

THOMAS JAMISON,
President Monongahela National Bank.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1581.

IN THE SENATE OF THE UNITED STATES

AUGUST 12, 1890.—Ordered to be printed.

Mr. HIGGINS, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 1857.]

The Committee on Claims, to whom was referred the bill (S. 1857) for the relief of Charles P. Chouteau, survivor of Chouteau, Harrison & Valle, having considered the same, submit the following report:

Several reports have been submitted in previous Congresses, commencing with the Forty-sixth Congress, all of which are in substance contained in H. R. Report No. 1434 of the Forty-sixth Congress, as follows:

[House Report No. 1434, Forty-sixth Congress, second session.]

The Committee on Claims, having had under consideration the bill (H. R. 4132) for the relief of Charles P. Chouteau, of St. Louis, Mo., beg leave to report:

On the 30th day of October, A. D. 1869, a petition was filed in the Court of Claims against the United States in the name of Charles W. McCord for the use of William A. Steel and others. It appears from said petition that on the 9th of July, 1863, Charles W. McCord, of the firm of McCord, Sanger & Steel (afterwards McCord & Steel), entered into a contract with the United States, through the Navy Department, to build an iron-clad steam battery, to be completed within eight months from the 24th of June, 1863 (the date of a similar contract made by the United States, with George C. Bestor), for the sum of $386,000, to be paid in eight installments. This contract contained the following clauses, which are all that are considered material by the committee in explanation of the intention of the contracting parties:

"SEC. 5. This battery to be completed and ready for service in eight months from the twenty-fourth (24) day of June, 1863, unless arrested by any contingency which human foresight could not avert, and the work on her shall progress in proportion to the time stipulated for her completion.

* * * * * * *

"SEC. 8. For this battery, so completed and delivered at Cairo, Illinois, within the eight months stipulated, the party of the second part will pay to the party of the first part the sum of three hundred and eighty-six thousand dollars in eight payments, in the following manner.

"SEC. 9. When there shall have been furnished by the party of the first part materials and work done to the amount of forty-eight thousand two hundred and fifty dollars, and certified to by the superintendent on the part of the United States, the party of the second part agrees to pay the same to the said party of the first part, on bills properly approved therefor, deducting and reserving twenty-five (25) per centum from each and every payment until a satisfactory test and acceptance of said vessel.

"SEC. 10. The party of the second part further agrees that, in addition to the price to be paid for the vessel, there will be paid to the party of the first part the additional sum of four thousand five hundred dollars per month for each and every month that the vessel may be delivered completed previous to the time stipulated; and the parties of the first part do hereby agree that for every month's delay beyond the time named for the delivery of the vessel there shall be a deduction of four thousand five hundred dollars ($4,500) per month from the sum of three hundred and eighty-six thousand dollars, before named as to be paid.

* * * * * * *

"SEC. 16. It is further agreed that the parties of the second part shall have the privilege of making alterations and additions to the plans and specifications at any time during the progress of the work as they may deem necessary and proper; and if said alterations and additions shall cause extra expense to the parties of the first part, they will pay for the same at fair and reasonable rates; and should such changes cause less work and expense to the parties of the first part, a corresponding reduction to be made from the contract price, and in each case the cost of the alterations to be determined when the changes are directed to be made.

* * * * * * *

"SEC. 19. The payments shall be made to the said parties of the first part, or to their order, by the navy agent at New York, in the manner and to the extent provided, on bills in triplicate, duly certified and approved by the proper persons, within ten days after the warrants for the same shall have been passed by the Secretary of the Treasury."

It is further alleged in said petition that after said contract was executed, McCord made a subcontract for the construction of the battery, with the firm of McCord & Co. (a firm in the iron foundry and machine building business, and of which he McCord, was a member) and Wm. A. Steel, by which subcontract McCord & Co., secured a two-thirds interest and Steel a one-third interest in the original contract; that work was duly commenced and diligently prosecuted, and the vessel would have been completed according to the contract but for changes in plan, delays, and suspension of work made, caused, or directed by the Government, by reason whereof the "petitioner was put to the extra expense of four hundred and twenty-seven thousand three hundred and forty-five dollars and ninety-eight cents ($427,345.98)."

The petition further alleges that McCord was paid "the original contract price for the building and equipping said vessel, to wit, $386,000, and the further sum of two hundred and three thousand four hundred and fifty-eight dollars and eighty-two cents ($203,458.82) on account of such alterations."

That the Navy Department has declined to pay the balance of the extra cost, amounting to the sum of $223,887.86.

The petition further alleges the bankruptcy of McCord & Co., and the sale of their interest in the claim of Chouteau, Harrison & Valle, who are thus become the equitable owners of a two-thirds interest in the claim, leaving the remaining one-third in Steel, and prays judgment in the usual form.

In February, A. D. 1873, an amended petition was filed by Paul A. Fusz, as administrator of the estate of Charles W. McCord. In the amended petition (p. 4) it is alleged that the vessel was ready for delivery at St. Louis in November, 1865; that owing to increased draught of vessel and low stage of water in the river she could not be delivered at Cairo until the last of March, 1866. It is also alleged that McCord "filed a statement of his claim" before the board of investigation appointed by the Secretary of the Navy, under the act of March 2, 1867, but that no allowance was reported in his favor. This amended petition was also accompanied by Exhibits (A and B, pages 6, 7–12, amended petition) showing the proceedings in bankruptcy by which Chouteau, Harrison & Valle acquired the interest of McCord in the claim against the Government. On the 24th day of November, 1873, a further amended petition was filed by Charles P. Chouteau, as surviving partner of Chouteau, Harrison & Valle, and William A. Steel, in which the death of Charles W. McCord, James Harrison, and Jules Valle is alleged. In this last amended petition, the history of the construction of the battery and the increased cost and losses to the contractor by reason of delays, changes, and alterations are set forth with great particularity. (See pages 4, 5, 6, and 7.)

On the hearing of the case in the Court of Claims, that court found the following matters of fact:

In the Court of Claims.

That the vessel specified in said contract was built and completed at St. Louis, Mo., in November, 1865, by the said Charles W. McCord, and has been accepted, and the contract price therefor paid by the United States. The completion of the vessel within the time specified in said contract was prevented by changes and alterations from her original plan and its specifications, made by the United States, and was thus delayed till November, 1865. These changes and alterations extended from July, 1863, to near the time of the completion of the vessel; and from the 15th of June, 1864, to September 19, 1864, the work upon the vessel was substantially suspended for the purpose of increasing her depth, and making other changes incident to that. These changes and alterations increased the size, weight, and draught of the vessel, and the amount of materials and labor required for her construction; and during the various delays above stated the prices of labor and materials increased, and skilled labor became difficult to be procured at St. Louis, because men were drafted into military service or left the locality to avoid being drafted.

From these circumstances the work required and done under the original contract was enhanced in cost to the contractor $122,166 beyond the contract price, less deductions for labor and materials saved by changes and alterations, $3,882.80, leaving a balance for increased cost of work required by the contract of $118,283.20. And from the same circumstances the cost to the contractors of the *extra* materials and labor on the vessels required by the changes and alterations made, exclusive of special contracts paid, were $172,273.55, of which $116,111 were paid, leaving a balance for extra materials and labor of $56,162.55.

After a careful consideration of the evidence, your committee see no reason to dissent from the findings of the Court of Claims in these particulars. It will be observed that the court ascertains—

First. The enhanced cost beyond the contract price to the contractor of the work done under the original contract.

Second. The cost to the contractor of the extra materials and labor on the vessel, required by the changes and alterations.

This mode or basis of estimating the total cost of the vessel to the contractor seems to be fully warranted by the opinion of the Chief Engineer of the Navy Department, Mr. Stimers. That official, in his testimony before the Court of Claims (Depositions before Court of Claims, pages 81, 82), says:

"Before expressing an opinion on the matter as an expert, I must explain that the principles upon which the contractors of this and the contractors of similar vessels were to be paid were settled upon before I left the office, and I have always understood that these principles were adhered to, and they were as follows: That we should pay for the contract work by making the contract payments, or the payments provided for in the contract; that we should pay for alterations and changes a proper sum, as might be agreed upon between the Government and the contractors, at current rates; now, that being the case, I consider that the Government is still indebted to the contractors of the *Etlah*, because, although the original contract work has been paid for as originally agreed upon, and the extra work may have been paid *per se*, the fact of calling upon the contractor to make the changes on his vessel and his compliance with those demands delayed him in the execution of the original contract work; this delay compelled him to pay the increased rates for labor and material which obtained at the time when the work was actually performed, and although the contractor took the risk of a rise in prices when he signed his contract, it was only for a risk during the period of his contract, or the period he would have required to perform the work, if the Government had not delayed him by their direct interference; now, whatever increase there was in the cost of the original work contemplated by the contract due to the delay caused by the Government, that increase is now due, as there has been no pretension on the part of the officers of the Government to have paid it; if you will determine the increased cost of material and labor of the original contract work during the extent of time when the contract was delayed by an interference of the Government to execute it, you will have, in my judgment, the indebtedness of the Government. There may be very large claims on account of extra work of which I know nothing."

It should be borne in mind that at the time this contract was entered into iron-clads were yet an experiment. It was desired to reserve to the Government the most unlimited power to change its plans. Each naval battle brought new light and valuable experience to the officers in charge of the construction of this class of war-vessels.

Chief Engineer Stimers was sent to Charleston in April, 1863, to watch the bombardment of that city. Upon his return he reported the result of his observations to the Secretary of the Navy. He says:

"It was decided that we should make the improvements *as we went along*, although we fully appreciated that it would delay their completion and add to their cost. Assistant Secretary Fox made the remark that he thought following this course would probably entail an extra cost of a million dollars for each battle we had where the *monitors* were engaged. Well, it was decided that that course should be followed."—(Depositions in Court of Claims, page 49.)

The result of this policy was:

1. To change materially the character of the vessel.

Mr. Stimers says:

"The acts, therefore, which I performed, which affected Mr. McCord and affect this case, were to direct him to make a different vessel from the one he contracted to do."—(Depositions in Court of Claims, page 50.)

2. To extend the time of the completion of the vessel until October, 1865.—(Depositions in Court of Claims, page 45.)

From June to September, A. D. 1864, work was entirely suspended by order of the Government, to await the perfection of plans and specifications for a general increase of the size of the vessel.—(Depositions in Court of Claims, pages 12, 15, and 109.)

From the evidence it clearly appears that the contractor could have completed the vessel in accordance with the contract had he not been delayed by the action of the Government.—(Depositions in Court of Claims, pages 18, 19.)

The preparations of the contractor to carry out his contract seem to have been ample.

But the petitioners encountered an unexpected difficulty in the Court of Claims. On the hearing the Government produced a receipt from McCord, signed by his attorneys in fact, Messrs. Gilman, Sons & Co., bankers, of New York, purporting to be in full of all extras for this vessel. It is alleged by the petitioners that this receipt was unknown to them before the day of the trial, and that they had no opportunity to rebut or explain it, and Messrs. Gilman, in their evidence, state that if such a receipt was signed by them, it was done without knowing the purport thereof; that they were only authorized as bankers to receive whatever moneys might be paid on account of such vessel, the contract requiring the payments to be made in New York; that they had no knowledge whatever of the state of accounts between the Government and their principals; that they had no authority to bind their principals further than the receipt of such moneys as were paid to them, and had no intention of binding the principals to any settlement.

The receipt was executed prior to the filing of the petition in bankruptcy.

The Court of Claims held this receipt to be a bar to all claims for *extras* in the construction of the battery.

The decision of the Court of Claims was affirmed on appeal by the Supreme Court.

Both courts proceed seemingly upon the theory that McCord participated in or assented to the preparation of the voucher, and that his rights were therefore necessarily concluded by the receipt executed by his attorneys in fact.

Your committee is unable to concur in this interpretation of the transaction. We are satisfied from our investigations that the preparation of the voucher was purely the act of the Government. In a communication, under date of April 10, 1880, addressed to the Secretary of the Navy, Mr. Easby, Chief of the Bureau of Construction, says:

"This bill came to the bureau in regular course, duly approved by the general inspector and by Rear-Admiral Gregory, who had the general superintendence and control of all classes of gun-boats, and whose duty it was to make out, approve, and forward all bills connected with their construction to this bureau for its approval and final payment by the respective paymasters. The original and duplicate of this bill are in the Treasury Department and are duly receipted, etc. * * * All such bills were made out in the office of Rear-Admiral Gregory and forwarded to the Department for approval, and there is no substantial difference between this bill in question and hundreds of others received from that office during the construction of the large number of vessels which were built under his general superintendence."

The foregoing letter was furnished to your committee in response to an inquiry concerning the practice of the Department in regard to the preparation of vouchers, and calling for any suggestions throwing light upon the preparation of the voucher in question. It is thus seen that it is possible that McCord never saw this voucher prior to its payment. In fact, from the circumstances of the case and the situation of the parties, your committee is of the opinion that it is altogether probable that such was the fact. The voucher was doubtless prepared by the Navy Department in the ordinary course, and receipted by Gilman, Son & Co., as and for so much money, and without any thought upon their part of adjusting the claims of McCordfor extra work or materials.

Your committee are therefore of the opinion that there are the strongest grounds to believe that the effect given to the voucher and receipt has been an unjust and inequitable one, and that the petitioners, notwithstanding said voucher and receipt, are fairly entitled to a settlement with the Government upon the principles adopted in the act of March 2, 1867, and under which many contractors for the construction of this class of vessels have been paid.

It is hardly consistent with the action of the Government in other cases to stand in this matter upon a mere technical advantage. See act for the relief of Geo. C. Bestor (17 Statutes, 733), which was for the construction of the *Shiloh*, a counterpart of *Etlah;* also act for the relief of M. Greenwood (17 Stat., 764); also act for relief of D. S. Mersden, jr. (18 Stat., 635); also act for relief of Donohue, Ryan & Co. (15 Stat., 353); also for relief of Chas. W. Whitney (17 Stat., 671).

Your committee are therefore of the opinion that the petitioners should be heard and their rights adjusted upon the merits of the claim, and that they should not be concluded by the voucher in question unless it appear that in equity and good conscience they ought to be. Your committee therefore report back said bill with the accompanying amendment and recommend its passage.

Subsequent to that report the committee of the House of the Forty-eighth Congress referred the bill pending before it to the Court of Claims

under the Bowman act, under which reference additional proof was taken, bearing upon the receipt referred to and the history attending the construction of iron-clad vessels.

The court dismissed this last petition upon the ground of want of jurisdiction, but in its opinion made the following suggestion:

The court also desires to call the attention of parties to the facts found and determined on the former trial. They are set forth both in 9 C. Cls. R., 155, and in 95 U. S. R., 61. It will be perceived by referring to them that every fact which could be found for the claimant under this reference has been already found and is set forth in these findings. They fix the amount of the claimant's losses in each branch of his case; they show the character and nature of the Government defenses, and they inform Congress of every fact necessary to be known, if it be the purpose of Congress to afford the claimant the relief he seeks (20 Ct. Cls., 250).

The evidence so taken shows that the Navy Department on the 10th of February, 1863, advertised for proposals for building light-draught vessels for rivers and bays in accordance with certain plans and specifications, which had been prepared in the Engineer Department, and of which class of vessels the Government proposed to build twenty. Only three or four proposals were received in reply to the advertisement, but upon the basis of these proposals the Department fixed the price of each vessel to be built under said plans and specifications at $386. This proposition was open to any parties capable of performing the contracts. In view of the immediate demand for the vessels there was a provision in the contracts, to be given out, that the vessels were to be completed within eight months from the dates of the contracts, with a penalty of $4,500 per month in case of delay beyond that period, and a bonus of $4,500 per month for the earlier completion.

Among those who accepted the terms of the proposition were George C. Bestor—who built the *Shiloh* and for which Congress appropriated $125,000 for the damages he had received—and Charles W. McCord, who built the *Etlah*. Both of these contracts were made in June, 1863; that is, the eight months commenced running on the 24th of June, 1863, although McCord's contract bears date July 9, 1863. These two vessels were built in the same yard and upon the same plans and specifications with like changes and alterations in every respect and like payments were made. They were, in fact, twin vessels, and although built by different parties yet the gangs of workmen were employed interchangeably upon one and the other. These contracts were made upon the basis of the specifications and drawings prepared in the preceding winter.

In the meantime Mr. Stimers, the chief engineer, had been sent to Charleston to examine the workings of the Erickson monitor, upon which the plans and specifications were based. Stimers returned to Washington in May, 1863, and reported to the Secretary of the Navy, in view of the results of his observations, the propriety of making certain changes in the plans and specifications which had been furnished to the contractor. To quote from his testimony:

The matter was discussed as to whether we had better build our vessels in strict accordance with the letter of the contracts which we were giving out, without any change whatever, or had we better take advantage of every such fight and make improvements as we went along, although we fully appreciated that it would delay their completion and add to their cost. Assistant Secretary Fox made the remark that he thought following this course would probably entail an entire cost of a million dollars for each battle where the monitors were engaged. Well, it was decided that that course should be followed.

The contracts for the light-draught monitors, of which the *Etlah* was one, had already been drawn, specifications, general drawings, etc., of the original plans, but we went immediately to work to make changes on them in accordance with what I have already

explained as the policy to be pursued. You will understand, therefore, why it was that I should send constant instructions to Mr. McCord directing him to make his vessel different from what he had contracted to do; why, I sent him drawings that differed from those specified in the contracts. You will find, too, that these might be very material, as they certainly were. The acts, therefore, which I performed, which affected Mr. McCord and effect this case, were to direct him to make a different vessel from the one he had contracted to do.

If Mr. McCord had no knowledge when he entered into this contract of this determination on the part of the Department, as is probable from the evidence, these frequent changes and alterations—some of which were made prior to the date of the contract—would, as between individuals, by reason of the delay occasioned by such changes and alterations, and the increased cost of materials and labor, shown to be enormous, constitute a legal fraud, the remedy for which would be in a court of equity to reform the contract in accordance with the equities of the case.

This equity has, however, been recognized by Congress in the act of March 2, 1867, directing the Secretary of the Navy to investigate the claims of all contractors for building vessels of war upon the following basis:

To ascertain the additional cost which was necessarily incurred by each contractor in the completion of his work by reason of any changes or alterations in the plans and specifications required and delays in the prosecution of the work occasioned by the Government, which were not provided for in the original contract; but no allowance for any advance in the price of labor or material shall be considered, unless such advance occurred during the prolonged time for completing the work rendered necessary by the delay resulting from the action of the Government aforesaid, and then only when such advance could not have been avoided by the exercise of ordinary prudence and diligence on the part of the contractor.

This claim is one of the class of cases arising under the same state of circumstances, and has received much attention from this committee, and is similar in most respects to that of Nathaniel McKay recently reported (S. Rep., 444).

In order, however, to conform to the principles above set forth and to preserve uniformity in legislation your committee recommend that the bill be amended by striking out all after the word "thirty-four" on the sixth line thereof, and insert the words shown in the accompanying bill; which so amended your committee now reports and recommends its passage.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1582.

IN THE SENATE OF THE UNITED STATES.

AUGUST 12, 1890.—Ordered to be printed.

Mr. HIGGINS, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 968.]

The Committee on Claims, to whom was referred the bill (S. 968) for the relief of Larrabee & Allen, having had the same under consideration, respectfully report:

Stephen Larrabee and Amos L. Allen, on the 9th September, 1862, entered into an agreement with the United States, through the Navy Department, for the construction of the hull of the wooden double-ender *Iosco*, by which they were to have the vessel launched and ready to receive the machinery within one hundred and seventy-six days.

The hull was launched on the 20th March, 1863, instead of March 4, 1863, owing to orders from Admiral Gregory and Inspector Pook to delay because the engine and machinery were not ready to be placed on board. The hull was delivered by claimants on the 24th of March, 1863, for attachment of the machinery, which work was to be accomplished in fifty days. Instead of claimants completing that part of their work which accompanied and that part which succeeded the attachment of the machinery within fifty days from March 4, 1863 to wit, April 23, 1863, they did not finish it until March 5, 1864. The cause of this delay is found in the testimony of Daniel N. Pickering, treasurer of the Globe Works, the contractors for building and putting in place the machinery for the *Iosco*, as given before the Selfridge board on the 28th of July, 1865, as follows:

> Appeared before the board Daniel N. Pickering, treasurer of the Globe Works, South Boston, Mass., on the part of the company, contractors for the machinery of the double-enders *Iosco* and *Massasoit*. Under oath stated that the contracts for these vessels were dated by the Navy Department August 15, 1862, in which they were allowed seven months, or until March 14, 1863, to complete the machinery and deliver the vessels to the Government, but the *Massasoit* was not so completed and delivered until the 9th of January, 1864, nor the *Iosco* until the 18th of January, 1864, the principal cause of delay being the difficulty in obtaining workmen, as the demand for the services of men in the Army and Navy was so great, and also on account of the number of vessels being built by the Government, making it impossible, with the scarcity of labor, to fulfill the contracts within the given time.

During this delay (three hundred and ten days) the prices of labor and material advanced rapidly, causing greater expense for that work done than would have been the case if the machinery had been promptly erected. From March 4, 1863, until March 20, 1863, the hull unduly occupied the yard and required the attendance of extra watchmen.

That Larrabee & Allen satisfactorily performed their contract is shown by the fact that their claim for increased cost was laid before and considered by, the board organized under the following resolution:

IN THE SENATE OF THE UNITED STATES,
March 9, 1865.

Resolved, That the Secretary of the Navy be requested to organize a board of not less than three competent persons, whose duty it shall be to inquire into and determine how much the vessels of war and steam machinery contracted for by the Department in the years 1862 and 1863 cost the contractors over and above the contract price, and the allowance for extra work, and report the same to the Senate at its next session, none but those who have given satisfaction to the Department to be considered.

Under said resolution the honorable Secretary of the Navy appointed a board, consisting of Thomas O. Selfridge, Chief Engineer Alexander Henderson (succeeded July 8 by Montgomery Fletcher), and Paymaster C. H. Eldredge, which convened at the Brooklyn Navy-Yard June 5, 1865, and continued in session for more than six months.

They reported, (*inter alia*). (See Senate Ex. Doc. No. 18, Thirty-ninth Congress, first session, p. 61–62), as follows:

The board, after a critical examination of the bills of cost presented by the several contractors for vessels and steam machinery contracted for in the years 1862 and 1863, who have appeared and made sworn statements, has determined the excess of cost in the several cases over and above the contract price and allowance for extra work to be as follows:

Double-ender *Iosco*, wooden hull, Larrabee & Allen..... $11,708.97

All of which is respectfully submitted.

THOMAS O. SELFRIDGE,
Commodore and President of Board.
MONTGOMERY FLETCHER,
Chief Engineer.
CHAS. H. ELDREDGE,
Paymaster.

Hon. GIDEON WELLES,
Secretary of the Navy, Washington, D. C.

This investigation and report covered and included contracts for the construction of hulls and machinery of some twenty-six other vessels.

On January 31, 1866, this report was referred to the Committee on Naval Affairs, of the Senate, who thereupon, March 22, 1866, reported a bill for the payment of the awards thus made. This bill, S. 220, first session, Thirty-ninth Congress, passed the Senate. In said report (No. 45, first session, Thirty-ninth Congress) the committee say:

From June till December last, the board organized by the Secretary of the Navy, under the Senate resolution, composed of eminent officers of the Navy, was engaged in hearing evidence and investigating the claims of these parties. That investigation seems to have been fairly, carefully, and thoroughly made. It was by officers of the Department, and the award, which the committee believe to be substantially right, should be adopted as the basis of relief to the parties, and therefore the committee report the accompanying bill.

In the office of the Secretary of the Senate is a verified statement made by Mr. Allen when these matters were fresh in his mind. This statement was prepared in response to a resolution of the House Committee on Claims and is among the files relating to Senate bill 220, first session, Thirty-ninth Congress, above alluded to. Your committee appends hereto a copy of this statement, a copy of the contract with Larrabee & Allen, and also two letters from the Navy Department, which fix approximately the delivery of the hull for the machinery and the completion of the vessel.

Stephen Larrabee is dead, and Amos L. Allen, of Bath, Me., is the survivor of the firm. Edward Wells Larrabee, of Bath, Me., is the executor of Stephen Larrabee, deceased.

Your committee is of the opinion that the claimant should be permitted to go before the Court of Claims and show how much the construction of the hull of the *Iosco* cost the contractors over and above the amount received by them, but that the judgment should not be greater than the amount allowed by the Selfridge Board in 1865. It therefore recommends the passage of the accompanying bill as a substitute for the bill referred to.

CONTRACT.

This contract, made and entered into at the City of Bath, in the State of Maine, the ninth day of September, 1862, between Larrabee & Allen, being Stephen Larrabee and Amos L. Allen, of the City of Bath, in the State of Maine, as principals, and Freeman Clark and Henry W. Owen, of said Bath, merchants, as sureties, of the first part, and John Lenthall, Chief of the Bureau of Construction and Repair, acting in the name of the Secretary of the Navy, for and in behalf of the United States of America, of the second part: WITNESSETH, That the said parties of the first part do hereby contract and agree with the said parties of the second part, that, for the consideration hereinafter named, they do hereby covenant and agree for themselves, executors, administrators, and assigns, to build, equip, and fit the hull, spars, spare spars, rigging, blocks, sails, spare sails, awnings, canvas work, boats, tanks, casks, and all the equipments and outfits connected therewith, necessary for a paddle-wheel gunboat; to be delivered afloat, and completely supplied with equipments and outfits except the steam machinery, anchors, cables, furniture, cooking utensils, instruments, stores, ordnance and ordnance stores, but in every other respect fit for sea service.

The said parties of the first part further agree that the said vessel, equipments, and outfits shall conform in all respects to the specifications, drawings, list of articles to be provided and hereunto attached, which constitute a part of this contract, and are to govern the parties hereby contracting as truly as if the same were incorporated in this instrument; nor is the omission therein of any detail or object necessary to carry into effect the intent of this agreement to be to the detriment of the United States.

The said parties of the first part further agree that all the materials shall be of the very best quality and free from defects; that the equipments and outfits shall conform to those used in the United States Navy, so that they may be used in connection therewith, and each and all respectively bearing the tests made of similar articles in the naval service.

It is further agreed by the parties of the first part that the person or persons appointed by the Navy Department to inspect the work shall have the power of rejecting, in any stage of its progress, any materials or articles that they may consider defective either in material or workmanship, and to whom every part and arrangement must be satisfactory; and they will provide the said inspectors a suitable and convenient office room, and afford them satisfactory facilities for superintending the work.

The said parties of the first part further agree and contract that the aforesaid vessel shall be launched on or before one hundred and seventy-six days from the date of this contract, and shall be promptly delivered at their expense at the premises of the parties who have agreed with the Navy Department to erect and place on board the steam machinery for the said vessel. If the vessel and machinery are constructed at different ports, then the said parties of the first part agree to deliver the vessel in like manner for the sum of five hundred dollars in addition to the price hereinafter named as to be paid.

The said parties of the first part do further agree to do all the carpenters' work necessary in connexion with the steam machinery, and to give a proper and sufficient notice of the time of launching to, and permit the contractors for the steam machinery to execute on board the vessel the work necessary to be done by them before launching.

It is further agreed by the said parties of the first part that the vessel, perfectly fitted with all the equipments and outfits of every kind complete which this contract covers and is intended to cover, shall be delivered to the Navy Department ready for naval cruising at sea (excepting only the steam machinery, ordnance, anchors, cables, furniture, cooking utensils, instruments, and stores not provided for in this contract), on or before the period of fifty days from the date of the delivery of the vessel at the premises of the contractors for the machinery.

The parties of the first part further agree that the magazines, shell rooms, light-boxes, shot-lockers, shot-racks, and all parts connected therewith, with the iron ring and other bolts, and all arrangements connected with the hull and appertaining to the armament, shall be in accordance with such instructions as may be given from

the Ordnance Bureau of the Navy Department; that all the apartments, state-rooms, store and other rooms, and fittings of every kind shall be conveniently arranged and fitted to the satisfaction of the inspector appointed by the Navy Department.

It is further agreed by the parties of the first part to hold the United States harmless against any demand for patent fees for any patented invention for any article or arrangement that may be used by them in the construction of this vessel, and before the final payment shall be made to furnish the Navy Department with a proper release from such patentee.

And the said parties of the first part do further engage and contract that no member of Congress, officer of the Navy, or any person holding any office or appointment under the Navy Department shall be admitted to any share or part of this contract or agreement, or to any benefit to arise therefrom. And it is hereby expressly provided, and this contract is upon this express condition, that if any such member of Congress, officer of the Navy, or other person above named shall be admitted to any share or part of this contract, or to any benefit to arise under it, or in case the parties of the first part shall in any respect fail to perform this contract on their part, the same may be, at the option of the United States, declared null and void, without affecting their right to recover for default that may have occurred.

In the event of a failure or neglect on the part of the parties of the first part to fulfill the stipulations of this contract, or to have the vessel launched or delivered at the premises of the contractors, for the machinery, or ready for sea, as above stipulated, it is hereby agreed and understood that they will yield and pay to the United States the sum of fifty dollars per day for each day delayed; and that in addition to said forfeiture, the Navy Department is authorized to take possession of and to direct purchases to be made of all the necessary materials, and cause the construction of the vessel to be completed and fully equipped and transported as heretofore described; and any excess of cost will be at the expense of the said parties of the first part, provided the delay has not been occasioned by an unavoidable accident, or the action of the Navy Department.

And the said United States, by the parties of the second part, do hereby contract and engage with the said parties of the first part as follows:

That the total price to be paid for the hull, equipment, and outfits, completed under all the conditions of this contract, and according to the annexed specifications, is to be seventy-five thousand dollars. The payments to be made in six equal parts as the work progresses, with a reservation of 20 per centum from each part.

The bills for these payments to be presented in triplicate, certified by the superintendent appointed by the Navy Department that the one-sixth part of the value of this contract, in labor and materials, has been furnished in due proportion to the time; which bills, when duly approved by the parties of the second part, shall be paid to the said parties of the first part, or to their order, by the navy agent at

It is further mutually understood and agreed that the sixth payment is not to be made until the vessel is coppered and delivered, as this contract provides, at the premises of the parties who have agreed to place the steam machinery on board; and that to entitle the said parties of the first part to the twenty per centum reserved as above named, the hull, equipments, and outfits must be complete and satisfactory to the Navy Department; and the payment thereof, or as much as may be due, shall be received by the parties of the first part in full consideration of the complete fulfillment of this contract.

It is further agreed that in the event of the steam machinery not being erected and completed on board the vessel within the time above specified for the completion of the vessel, she being in all other respects fully completed, the final payment shall then be made, withholding only so much as may be necessary to execute the work remaining to be done.

It is further agreed that the Navy Department shall have a lien on the vessel, and on all the materials provided for the fulfillment of this contract, for the money advanced or paid by the United States on account thereof; and that the said parties of the first part agree that they will keep the vessel and the materials insured to the amount which may be paid on account of this contract, until delivered at the premises of the parties who have agreed with the Navy Department for the erection of the steam machinery on board, the policies being made payable to the United States.

During the time the vessel is having the machinery erected and placed on board, the contractors therefor have agreed to furnish the parties of the first part, free of expense, with such facilities as they may have for her completion.

The vessel to be delivered at the Globe Works, Boston, Mass.

LARRABEE & ALLEN,
FREEMAN CLARK,
H. W. OWEN,
STEPHEN LARRABEE,
AMOS L. ALLEN.

Signed, sealed, and delivered in presence of E. S. J. Nealley, R. Fisher. E. S. J. Nealley witness to S. Larrabee, and Amos L. Allen, R. Fisher.

BATH, ME., *December* 17, 1866.

SIR: The following is the statement upon which we base our claim for relief on building wooden double-ender gun-boat *Iosco*, and which we submit to your honorable body.

About the middle of July, 1862, we received a printed circular giving in full the dimensions and specifications for a gun-boat, and asking for bids for a boat according to those dimensions and specifications, the bids to be received until July 30, 1862. We sent in a bid for one of them.

In the month of August, 1862, we received a letter from the Navy Department offering us one of the gun-boats to build, referring us to the printed circular or dimensions and specifications on which we made our estimate, with the following alterations: There was 2 feet added to the length of the vessel, composition stems and composition rifle-proof strapping for the pilot-house. We accepted the offer with the understanding that we were to have one hundred and twenty days from date of contract to launch the vessel, the Department to furnish all the plans and specifications.

We were referred by the Department to some of the East Boston builders for lines and plans to draft the ship. We were consequently compelled to draft the ship and make all the moulds for building the vessel at East Boston and ship them to Bath, at considerable cost. We went to work with all diligence to get the work along as fast as possible as we were aware Government was very much in want of that class of vessels at that time.

On the 15th of September, 1862, we received a contract dated September 9, 1862, also drawings and specifications; in these specifications there was a hurricane deck called for between the wheels, or 31 feet long, which was not mentioned in any former plans or specifications. In October following, after we had our vessel all timbered out and putting in the iron strapping, we received from the Department a special drawing for a hurricane deck about 80 feet long. We then had to take out top timbers and half timbers 25 feet forward and aft the one already timbered for, making an additional length of about 50 feet. After our ship was iron-strapped according to plans and specifications, we were ordered to put in extra strapping amidship, which is doubly expensive to make alterations after work is done. After the work was finished, calked, and painted, we were ordered to ceil up the waist inside on deck; we were also ordered to furnish a sheet-iron lookout on the fore and main cross-trees, extra port sills for the pivot guns. We were led to believe that the composition stems and cladding would not cost over $1,500 when it actually cost over $5,000.

We addressed a letter to Admiral Gregory, the general superintendent, to know if our ship was wanted according to the requirements of the contract. He answered and gave us permission to keep the ship on the stocks until the builders of the machinery were ready for her. The day was fixed by our inspector and we accordingly launched and delivered her to the Globe Works, South Boston, March, 1863.

The Department allowed us $500 for delivering our vessel in Boston, which actually cost us over $1,400. After we had delivered the ship to the perfect satisfaction of all the parties we were requested to dismantle the vessel and store and take care of everything, also to put on a day and night ship-keeper at $2 each per day. Naval Constructor S. M. Pook, General Inspector William Laighton, our local inspector and myself, made an estimate of what it would cost to finish our contract, and it was agreed to, that $1,200 to $1,500 would be the extent, but for the work we could have completed inside of six weeks we were detained there one year less a few days, subjected to all the rise of materials and labor at that time, causing our bill to be over $9,000 for extra painting, calking, rigging, blacksmith work, alterations of various kinds, such as changing the fore and main chains from the outside of hull to the inside of waist, turning in and refitting all the standing rigging, additional length of 5 feet to the hurricane deck, changing all the breeching bolts to the gun ports, brass rail on hurricane deck, altering and changing boiler and engine hatches, besides various alterations, all of which was ordered after the work had once been done according to plans and specifications and entirely to the satisfaction of the inspector. We were also called on to alter the steering gear at a very late day at a cost of over $500.

We had every assurance from our inspectors that the Government would pay us for any alterations or improvements that were needed to make her an efficient vessel. We always held ourselves in readiness to make any improvements or alterations until the machinists were ready to deliver their work, which was not until March, 1864.

In making up the cost of our vessel we added nothing for our services, interest, or insurance, except insurance up to the time of the delivery of said vessel in Boston.

Very respectfully,

A. L. ALLEN,
For LARRABEE & ALLEN.

Hon. C. DELANO,
Chairman House Committee on Claims, Washington, D. C.

STATE OF NEW YORK, *City and County of New York, ss:*

Be it remembered that on this 18th day of December, A. D. 1866, before me, the undersigned, Charles Nettleton, a notary public in and for the city and county of New York, duly commissioned and sworn and dwelling in said city of New York, personally came A. L. Allen, to me known, who, being by me duly sworn, did depose and say that he is a member of the firm of Larrabee & Allen, named in the foregoing affidavit by him subscribed, and made solemn oath before me that the contents of said affidavit are true in each and every respect and particular.

In witness whereof I have hereunto set my hand and affixed my notarial seal this 18th day of December, A. D. 1866.

[SEAL.] CHARLES NETTLETON,
Notary Public in and for the City and County of New York.

NEW YORK, *March* 30, 1863.

SIR: Respectfully inclosed herewith are the certificates for payments now due contractors on account, as follows:

* * * * * *

To Larrabee & Allen, 6th payment for the "*Iosco*," $10,000
To Larrabee & Allen, part of reserved, amt..... 10,000

* * * * * *

Messrs. Larrabee & Allen having delivered the *Iosco* at the foundry of the Globe Works, South Boston, for her machinery, are entitled to a part of the reservation on the amounts paid them. I have still in reserve $5,000, held to answer for any deficiencies on the completion of the vessel and final settlement.

I am, very respectfully, your obedient servant,

F. H. GREGORY,
Rear-Admiral, Sup't.

JOHN LENTHALL, Esq.,
Chief Bureau of Construction, Washington.

NAVY DEPARTMENT, BUREAU OF CONSTRUCTION AND REPAIR,
March 17, 1864.

LARRABEE & ALLEN,
Bath, Me.:

Inclosed herewith you will receive a bill for the final payment on the "*Iosco*," approved in triplicate for $5,500, payable by the navy agent at Boston.

Very respectfully,

JOHN LENTHALL,
Chief of Bureau.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1583.

IN THE SENATE OF THE UNITED STATES.

AUGUST 13, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2804.]

The Committee on Pensions, to whom was referred the bill (H. R. 2804) to increase the pension of Charles W. Kridler, have examined the same and report:

The report on which this bill was passed by the House is concurred in and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2804) to increase the pension of Charles W. Kridler, submit the following report:

Charles W. Kridler was a private in Company A, Fifteenth Regiment Ohio Volunteer Infantry; he enlisted September 3, 1861, and was discharged May 16, 1863, by reason of a gunshot wound in the right leg, at Pittsburgh Landing, April 7, 1862; his leg was subsequently amputated; his certificate of disability shows that claimant was discharged by reason of disease of the right leg, following gunshot wound. An attempt was made to save the limb which resulted in the necessity of amputation.

After his discharge he was pensioned in 1865 at $8 per month, which was increased from time to time until at the present time he is receiving a pension of $36 per month.

The condition of the amputated limb and disease in the hip joint, from which he is suffering, is described in the medical certificate by the board of examining surgeons who last examined him, as follows:

"There has been an amputation of the right thigh exactly 7 inches below the lesser trochanter of the femur; the stump is very tender on pressure; there is a tender, depressed, and adherent cicatrix on the posterior aspect of the stump 2 inches wide and 8 inches long, extending from the end of the stump upwards; there is an open sore the size of a five-cent nickel on the inner aspect of the stump just below the right groin; he can wear an artificial leg and has done so for several years; the amputation is not so near the hip-joint as to prevent the use of one."

In regard to wearing an artificial leg the claimant says:

"The wearing of an artificial leg irritates the stump and causes a sore on the inner side of it, which gathers and discharges pus three or four times a year, and whenever it does so I can not wear my leg."

The condition of the left leg, resulting from blood-poisoning and gangrene in the amputated limb, and abscess in the left hip, are certified to by his family physician. Dr. R. W. Hall, his family physician, says:

"I know that he was an able-bodied man at the time of his enlistment in September, 1861, healthy and free from disease. I have known him ever since his return in summer of 1863 from service, at which time he had lost a leg and part of the thigh. He has always suffered from the effect of the injury to his right leg. He stated that he had gangrene in it previous to its amputation, and his appearance and character indicate that he had suffered from blood-poisoning. He has never enjoyed full health since.

"I have prescribed for him many times and have been his physician during all the time. He had varicosed veins of the left leg when he returned, and they gradually grew worse until it resulted in indolent ulcer, which he has supported for thirteen years past, and at times seemed to require almost amputation of the leg to protect his life, but with rest and treatment it got somewhat better, until he commenced to use it again, when it broke out afresh.

"This condition has resulted in debilitating his system until it has seriously affected his lungs, which completely disables him; in fact, he has been unable to do manual labor of any kind for some years. He also suffers from deafness in the left ear, which he says was contracted in the service. He is now completely unfit to do any manual labor whatever, and entitled to full disability."

Under the present law this man can only receive $36, by reason of the doubt that exists in the minds of the medical department in the Pension Office as to whether the disease of the left leg is the direct result of the injury to the right leg. His application for increase, owing to the deplorable condition of his left leg, has, therefore been rejected by the Pension Office.

In the opinion of your committee, this man is entitled to $72 per month, but inasmuch as there seems to be some doubt as to the cause of the disease of the left leg, in the opinion of your committee, this man is clearly entitled to at least $50 per month, as the bill provides. He is poor and in destitute circumstances and at the most can live but a short time. He is now partially supported by charity and suffers untold agony; and after a careful investigation of his condition, your committee are of the opinion that this is a meritorious claim.

The bill is reported favorably, with a recommendation that it do pass.

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51st Congress, 1st Session. | SENATE. | Report No. 1584.

IN THE SENATE OF THE UNITED STATES.

August 13, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Education and Labor, submitted the following

REPORT:

[To accompany S. R. 2.]

Mr. Blair, from the Committee on Education and Labor, to whom was referred Senate resolution No. 2, being joint resolution proposing an amendment to the Constitution of the United States in relation to the manufacture, importation, exportation, transportation, and sale of alcoholic liquors by direction of the committee, submits the following report recommending the passage of the resolution:

The joint resolution pending is in the following terms:

[S. R. 2.—Fifty-first Congress, first session.]

JOINT RESOLUTION proposing an amendment to the Constitution of the United States in relation to the manufacture, importation, exportation, transportation, and sale of alcoholic liquors.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two thirds of each House concurring therein), That the following amendment to the Constitution of the United States be, and hereby is, proposed to the States, to become valid when ratified by the legislatures of three-fourths of the several States, as provided in the Constitution:

ARTICLE —.

SECTION 1. The manufacture, importation, exportation, transportation, and sale of all alcoholic liquors as a beverage shall be, and hereby is, forever prohibited in the United States and in every place subject to their jurisdiction.

SEC. 2. Congress shall enforce this article by all needful legislation.

The substance of this joint resolution has been pending in every Congress since and including the forty-fourth.

The original resolution as reported to the Senate in the Forty-ninth Congress is in the following language:

[S. R. 32, Forty-seventh Congress, first session.]

JOINT RESOLUTION proposing an amendment to the Constitution in relation to alcoholic liquors and other poisonous beverages.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following amendment to the Constitution be, and hereby is, proposed to the States, to become valid when ratified by the legislatures of three-fourths of the several States, as provided in the Constitution:

ARTICLE —.

SECTION 1. From and after the year of our Lord nineteen hundred the manufacture and sale of distilled alcholic intoxicating liquors, or alcoholic liquors any part of which is obtained by distillation or process equivalent thereto, or any intoxicating liquors

mixed or adulterated with ardent spirits or with any poison whatever, except for medicinal, mechanical, chemical, and scientific purposes, and for use in the arts, anywhere within the United States and the Territories thereof, shall cease; and the importation of such liquors from foreign states and countries to the United States and Territories, and the exportation of such liquors from and the transportation thereof within and through any part of this country, except for the use and purposes aforesaid, shall be, and hereby is, forever thereafter prohibited.

SEC. 2. Nothing in this article shall be construed to waive or abridge any existing power of Congress, nor the right, which is hereby recognized, of the people of any State or Territory to enact laws to prevent the increase and for the suppression or regulation of the manufacture, sale, and use of liquors, and the ingredients thereof, any part of which is alcoholic, intoxicating, or poisonous, within its own limits, and for the exclusion of such liquors and ingredients therefrom at any time, as well before as after the close of the year of our Lord nineteen hundred; but until then, and until ten years after the ratification hereof as provided in the next section, no State or Territory shall interfere with the transportation of said liquor or ingredients, in packages safely secured, over the usual lines of traffic, to other States and Territories wherein the manufacture, sale, and use thereof for other purposes and use than those excepted in the first section shall be lawful: *Provided*, That the true destination of such packages be plainly marked thereon.

SEC. 3. Should this article not be ratified by three-fourths of the States on or before the last day of December, eighteen hundred and ninety, then the first section hereof shall take effect and be in force at the expiration of ten years from such ratification; and the assent of any State to this article shall not be rescinded nor reversed.

SEC. 4. Congress shall enforce this article by all needful legislation.

A large portion of those of our people who have devoted special attention to the nature and extent of the traffic in intoxicating liquors have been convinced that its national proportions could only be controlled by the exercise of national power. The enormity and variety of evils resulting from the traffic are admitted by all. Even those whose capital and personal interests are involved in it do not hesitate to declare that it would be a source of rejoicing to them if the business itself did not exist. They console themselves in its prosecution, and in the enjoyment of its profits, by the reflection that if, as individuals, they were not concerned in it, others would be sure to take their places and supply the appetite which already everywhere exists and imperiously demands supply.

Probably there is not an intelligent person in the United States, or in the civilized world, who will not at once answer, if questioned, that alcohol is the source of more hurt to society than any other one known cause. The difficulty arises in the selection of methods and agencies for the removal of these admitted evils.

During the last hundred years in all the States of the Union there has been an incessant effort by moral suasion and by legislation to rescue society from the fiend of intoxication. Undoubtedly by the pressure of all known agencies for good, through the pulpit, the press, by private intercourse and personal appeal, as well as by legislation in the States, great benefit has been accomplished. The nature of alcohol is better understood and it is now conceded to be a poison. Its evil consequences are intelligently comprehended and charged home upon their true cause. But all the while, by hereditary taint as well as by original contraction, the habit has maintained its hold upon the community, and in many individual cases it to-day seems to have a more inflexible control of its victim than did the habit of intoxication in former years. It appears to be like a disease which becomes more and more unmanageable and surely fatal the longer it exists in a community, so that to-day the evil of intoxication on the whole is felt to as great an extent in American society as during any former period, and is ruining as many bodies and destroying as many souls as ever in proportion to the total number of our population. In other words, the agencies which have hitherto been employed, whether of law or persuasion, have failed to grasp the situ

ation, and to-day the ravages of alcohol in the country and in the world among civilized and uncivilized men are greater than ever before. The production of intoxicating drinks, both distilled and fermented, is increasing, and the world as a whole is succumbing slowly but surely to the snares of this enticing vice.

There have been license laws and prohibitory laws, and many honest and vigorous efforts have been made for their enforcement in the various States of the Union. But every form of legal effort, combined with the most energetic, decided, enthusiastic, and continuous effort by the pulpit, press, and church, and by personal solicitation, has not sufficed to effect a permanent reform. It does not follow, however, that because this evil is unconquered that it must remain so. Genuine political liberty has first been developed in recent history and in our own nation. The conflicts and struggles of mankind for almost six thousand years were necessary to its evolution. There is that element of divinity in human nature which can and will overcome all opposing tendencies in the race, as a whole as well as in the individual. When the uttermost strength of man, created in the image of God, is put forth in alliance with his Creator, for his salvation, the drinking appetite of the world can be overcome by the world as surely as the resolute individual can reform and live.

For additional means wherewith to combat this evil, the hosts of temperance reform have called and are calling upon the nation, as a nation, to stretch forth its arm and strike down the chief curse of all time.

As the Constitution of the United States is almost universally construed, the National Government has no jurisdiction over the liquor traffic within the States. The National Government has, however, the exclusive power to regulate commerce, both internal and external, and with the Indian tribes; and it recognizes all articles as subjects of legitimate commerce which are the subjects of commerce between any of the States, or in the commercial world, subject sometimes to many, sometimes to few, sometimes to no restrictions whatever. Alcoholic beverages, in all their forms, are universally recognized subjects of commerce. Thus the National Government, regulating and protecting commerce between the States and foreign nations, becomes, in practical effect, the protector of the liquor traffic. Just what its powers may be when the Constitution shall be construed by a Supreme Court made up of men determined to find its uttermost powers to limit, or even to destroy the traffic, it is unnecessary now to inquire. No such judicial tribunal now exists and none should exist which will torture a desired doctrine from a recusant Constitution. A court which will extort good from the Constitution by a forced and unnatural construction will upon occasion find evil with at least equal facility. We well know that very few of our people and only the smallest proportion of the legal profession and of the judiciary, either of the States or of the nation, up to this time, have believed that under the Constitution the National Government can interfere for the restriction and destruction of the liquor trade in the States. Equally difficult will it be to find any considerable number of students who have studied our Constitution and laws who believe that the power to prohibit the traffic in intoxicating liquors with foreign nations can unquestionably be exercised by the National Government under the Constitution in its present form.

And yet, until the national power can be exerted as a whole by excluding liquors from abroad, and by prohibiting the manufacture at home, and the transportation of the manufactured article anywhere

throughout the country, as well as the sale among individuals, it will be impossible to effectually accomplish the destruction of the liquor traffic. Of what avail is a prohibitory law in Maine and New Hampshire, or in Dakota or Kansas, when surrounding nations and States manufacture, and sell, and transport at liberty, seeking a market wherever they will?

The appetite already exists. The demand is everywhere. And although prohibitory laws may interpose slight obstacles to the gratification of the appetite, nevertheless they are partial, oftentimes total failures; and, sooner or later, a discouraged and disgusted community will abandon the effort to mop up the ocean in despair.

National law, enacted under an amended Constitution, could prohibit importation, could prohibit transportation and sale, and in concurrence with like legislation by the States (the union of the power of the nation and the power of the States), thus securing the entire strength of the whole community, could soon put an end to the traffic. Under such restrictions in a generation or two the consumption of alcohol as a beverage would practically disappear. Alcohol would still be manufactured, distributed, and sold under the restrictions appertaining to other poisons; and its use as a medicine, and in the arts, would not be interfered with. Its manufacture and distribution would be controlled by like regulations as those made with reference to dynamite, nitro-glycerine, and gunpowder, and the whole family of poisons, and, in fact, all articles of great and dangerous potency which, nevertheless, have their legitimate uses for the benefit of mankind.

Those who urge an amendment of the National Constitution to secure the removal of the evils of intoxication are not careful that the uttermost power which possibly may be concealed in the Constitution be put forth to this end before an attempted amendment. They hold that if there be any doubt, as there is doubt, of the true meaning of the Constitution, it should be removed at once by a bold and affirmative and unmistakable declaration against the liquor traffic embodied on the Constitution itself for the general welfare. It should be made aggressive and explicit.

We should seize this great evil by power analogous in its completeness and vigor to that of taxation and of making war. No foreign invader, nor all the military powers of the world combined, could do the harm to the American people under which they are continually suffering from the trade in alcohol; and for the national preservation the Constitution should declare inflexible and perpetual war against it. The timorous, uncertain, and ineffectual efforts of States should not be relied upon. It is indispensable to the very existence of their police powers, which have been given for the preservation of good order, good health, and good morals in society, that the powers of society, as a whole, operating in and through the national functions, should re-enforce, protect, and preserve the police powers of the State. The nation is but the aggregate of the States, and the parts can not be expected to accomplish their own good with the aggregate operating against them, or even passively reposing upon them with its continental bulk.

Such is the line of argument, briefly stated, of those who believe that this Joint Resolution should be made a part of the Constitution.

Your committee, whether unanimous or otherwise, in the holding to this view, are of the opinion that the resolution should be favorably reported, and should be submitted by Congress to the action of the States for another reason; it being a fact that a very large proportion of the American people are anxious that the National Constitution

be amended in accordance with the resolution, we believe that they have a right to be heard in the forum of the State legislatures, where alone the question can be decided whether the National Constitution shall be amended. That Constitution points out definitely the manner in which a change in its provisions may be effected. The Constitution of the country must be amended from time to time to correspond with the evolution of the nation itself, for it is impossible to fetter the growth of the nation in any direction. It will grow, peacefully or otherwise. The Constitution must yield here and there, corresponding to the necessities of the times and of the people, and the necessary changes be peacefully made, in accordance with the methods of amendment pointed out in the Constitution itself, or revolution and blood-shed will perform their work. The Constitution and the spirit of the age must be one. Whenever any considerable and respectable portion of the American people (and no considerable number can fail to be respectable) desire changes in the fundamental law, and ask respectful consideration of their propositions by the nation at large, we hold it to be the duty of the Congress to give them a status in the court provided by the Constitution for its own amendment.

They have a right that their contention be placed in proper form before the local legislatures and the people before they have demonstrated that they are able to secure its ratification by three-fourths of the States. That ratification, if it comes at all, will come as a result of agitation and discussion of the very proposition which they ask to have submitted. The true question for Congress to consider is not whether three-fourths of the States will ratify, after discussion and agitation, but whether the subject concerns the public welfare, and whether those who desire the submission of the resolution be of sufficient number to relieve the proceeding from the charge of triviality and inconsequence. Deciding upon grounds like these, your committee are impressed by the overwhelming importance of the subject to the nation and to the world, and by the vast number, not to say the majority of the moral and intellectual forces of the country, which demand the submission of this joint resolution to the consideration of the States. We, therefore, report it favorably, and recommend its passage.

We append the brief reports of the committee upon this joint resolution in the Forty-ninth and in the Fiftieth Congresses, which contain additional matter, important for consideration in connection with this subject.

Senate Report No. 1727, Fiftieth Congress, first session.

Mr. BLAIR, from the Committee on Education and Labor, submitted the following

REPORT:

[To accompany S. Res. 12.]

By direction of the Committee on Education and Labor Mr. Blair submits the following report on Senate Resolution No. 12, entitled "Joint resolution proposing an amendment of the Constitution of the United States in relation to the manufacture, importation, exportation, transportation, and sale of alcoholic liquors," recommending its submission to the States to become valid as a part of the Constitution when ratified by the legislatures of three-fourths of the several States as provided in the Constitution.

The joint resolution is in the following words:

[Fiftieth Congress, first session. S. R. 12.]

Joint resolution proposing an amendment of the Constitution of the United States in relation to the manufacture, importation, exportation, transportation, and sale of alcoholic liquors.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following amendment to the Constitution of the United States be, and hereby is, proposed to the States, to become valid when ratified by the legislatures of three-fourths of the several States as provided in the Constitution.

ARTICLE —.

SECTION 1. The manufacture, importation, exportation, transportation, and sale of all alcoholic liquors as a beverage shall be, and hereby is, forever prohibited in the United States and in every place subject to their jurisdiction.

SEC. 2. Congress shall enforce this article by all needful legislation.

In submitting this favorable report upon the aforesaid joint resolution it is proper to say that there are members of the committee who concur in the report recommending the submission of the proposed amendment to the States who do not, by such action, indicate their approval of the adoption of the amendment as a part of the Constitution nor that they would themselves advocate its ratification by the legislatures of the States; but in deference to the immense mass of petitions for this amendment of the organic law, coming from the people in all parts of the country, and believing that an opportunity should be given to them to be heard upon the merits of their cause in the forum of the States, where alone it can be heard and decided, the majority of the committee would deem a refusal to submit the proposed amendment to the States for consideration analogous to the denial of the right of a party to be heard in court upon a question of private right. The method provided

in the Constitution for its own peaceful amendment would be destroyed by failure to submit the proposition for amendment in cases of grave moment involving the approval and prayers of multitudes of the people, for where the remedy sought is admitted to be without the jurisdiction of the fundamental law, the petition is really addressed to the only tribunal which can enlarge that jurisdiction, that is to say, to the States themselves. Should, then, Congress in such case refuse to submit the proposal to the States, such refusal would constitute a substantial denial of the right of petition itself.

The changes in the national Constitution made indispensable by the development of the nation can only be peacefully accomplished by a judicious and liberal exercise of the power of Congress to propose amendments to the States upon the petition of those who desire to be heard in the great court of the people exercising their sovereignty through the States as in the formation of the Constitution.

It is well known that, but for the belief in the conventions of the States that the opportunity to amend the Constitution would be most liberally afforded by Congress in accordance with the forms provided in that instrument, the original ratification never would have been obtained. Some of the States ratified only because it was firmly believed that, whatever might be the opinions of Congress upon the modifications desired by those who considered the instrument proposed for ratification as fatally defective without them, the suggested amendments would be submitted to the subsequent action of the States almost as a matter of course.

While the committee would by no means justify the submission of trifling or uncalled-for propositions for the consideration of the States, yet they firmly believe that the perpetuity and peace of the country under the forms of constitutional government demand that there be no captious or arbitrary denial of the right of petition for the amendment of the fundamental law through the forms of Congressional submission to the tribunal of the people in the States.

The agitation for national legislation for the extirpation of the traffic in alcoholic poison made and sold to be used as a beverage will never cease to disturb and finally destroy great political parties until they submit the question of the enlargement of national constitutional jurisdiction so as to include control of the subject.

When this proposed amendment is submitted to the action of the States the subject will pass in its important features from the national arena to that of the several States until the fate of the proposed amendment is decided. When decided, if adversely to the ratification, the subject will be eliminated from national politics, at least for many years.

If on the other hand the proposed amendment should be ratified and become a part of the national law, the chief curse of the world would be summoned to the block of national justice and die by the hand of the only power which can wield an ax big and sharp enough to cut off its hydra head.

Then we should have peace.

But the agitation for the destruction of the liquor traffic can not cease until the evils which it inflicts upon mankind are removed or the human race is destroyed.

It is useless to cry peace, peace, when there is no peace. It is time to face the subject. Evasion has become almost impossible, and the effort requires an activity which is too exhaustive for its long continuance.

Judging from the petitions which have been presented to Congress during the last few years, many of which are representative of great

bodies and of communities whose individual signatures have not been obtained, it can hardly be doubted that at least ten millions of the American people are desirous of national legislation for the destruction of poisonous, that is to say, of alcoholic, drinks.

These people represent a power of thought and a moral force far greater than their mere numbers. Whoever expects to withstand the shock of their charge will yet regret that its irresistible power was not seasonably realized.

These petitions for the opportunity to amend the National Constitution must be heard and will be heard. Those who will oppose them in the States will yet demand that they shall be heard in the States upon the proposition of a prohibitory amendment of the National Constitution.

To deny this is to subvert the republican form of government, and the honorable opponents of the measure will not always refuse to its friends that hearing in court which is the sacred right of every American, and especially in a matter of so great national concern.

It is claimed by the advocates of this amendment that the liquor traffic is a unit of evil which submerges the whole nation, and that there can be no complete and certainly no permanent elevation of any part above this "sea of trouble," which is not the result of a lifting force exerted continuously by the nation in its organic capacity everywhere throughout the whole country, co-operating with and supplementing, and, when necessary to accomplish the end, overruling and subordinating the action of the States.

At the present time the police power in the States is fettered and thwarted in its efforts to suppress this evil within the limits of the States, respectively, by the national guaranties of protection to transportation and the rights of manufacture and sale existing in all the States and localities which decline to impose the necessary restriction.

This evil runs with the blood throughout the whole system of national life, and nothing but national constitutional treatment will cure it.

It is not a local disease. To be sure there are local ulcerations, but they extend all over the body. It has become a confluent eruption which must be medicined from within as well as from without. It can not be cured by the external application of patches of plaster upon the States, whose combined surfaces, with that of the Territories, cover that of the entire national body.

The police power in government, the power of the people to preserve order, health, and good morals, is said to be vested in the States. The liquor traffic is believed by the advocates of this resolution for the amendment of the Constitution to be directly destructive of society and consequently of all the ends for which the police power exists. From the very nature of the liquor evil, and the fact that we are a nation and but one nation, this omnipresent national evil can not be controlled by the feeble efforts of States. From their juxtaposition they could hardly protect themselves against each other even if they were absolutely independent nations. But now the nation controls both interstate and foreign commerce, protects the manufacture, wherever local law permits it, and the distribution and sale to such extent everywhere that without national action the evil must be perpetual so far as its removal depends upon law.

National constitutional legislation, therefore, becomes necessary to preserve the police power itself, which, under existing national laws and the relations between the States themselves, as well as between the Gen-

eral Government, and the States, is nullified, and the health, morals, and good order of society destroyed.

Such are a few of the arguments by which the advocates of this measure press its consideration upon us.

The proposal to amend the Constitution in this regard has been pending in Congress since the first session of the Forty-fourth Congress.

The form of the proposition as now submitted has been modified so as to harmonize the conflicting views of its own friends and to secure, so far as the committee is aware, the universal support of all who desire the national prohibition of the traffic in alcoholic poisons made to be used as beverages.

The report of the committee of the last Congress in favor of a like amendment is herewith submitted as a part of this, together with the able and exhaustive address before the committee by A. M. Powell, esq., who represented the National Temperance Society, and the lucid and comprehensive argument of Mrs. Ada M. Bittenbender, the accomplished attorney of the Woman's National Christian Temperance Union, both of which are incorporated as a part of this report and will render further discussion by the committee unnecessary.

This form* of amendment was proposed and advocated by the chairman of the committee in the House of Representatives of the Forty-fourth Congress, and in every Congress since until the present, the Fiftieth, Congress. The form in which the amendment was introduced at this session by the chairman of the committee, and in which it is now reported without alteration, has been agreed upon by the leading temperance organizations of the country, by all of whom it is indorsed and supported.

[Senate Report No. 1563. Forty-ninth Congress, first session.]

Submitted by Senator BLAIR:

The Committee on Education and Labor, to whom was referred joint resolution of the Senate No. 6, "proposing an amendment to the Constitution in relation to alcoholic liquors and other poisonous beverages," have considered the same, and by a majority of their number report the joint resolution back favorably, and recommend its passage, and that the proposed amendment be submitted to the legislatures of the States for their action, with a view to the ratification thereof, as provided in the Constitution.

The committee does not deem it necessary to discuss the evils wrought by the use of alcohol, in its various forms and degrees of purity and of adulteration as a beverage, upon the life, health, industry, property, morals, character, and destiny of the American people and of the world.

Whatever remedy, whether by the enactment and enforcement of laws, by the forces of education, and motives addressed to the moral nature and will of the individual, or by a combination of all restrictive agencies, the whole people, with very few exceptions, admit the existence of the curse itself, and cry out, "Who and what shall deliver us from this body of death?" Your committee believe the public sentiment is ripe for the consideration and adoption of the best means, and of all the means, and the exertion of all the forces, both in the nation and in the States, to effect the extirpation of the alcoholic evil.

Thus far the people have struggled to accomplish this end with no help from national law. On the contrary, the recognition and protection given to alcoholic drink as property, as a legitimate article of manu-

* See p. 6.

facture everywhere and for all uses, and of commerce, both interstate and international, by the Constitution and laws of the United States, have always constituted one of the chief obstacles to the success of that great movement known as the temperance reform, and until there be a change in the fundamental law of the nation giving complete jurisdiction over the subject to assist, and, if necessary, to reverse the action of the States by the power of the whole body politic throughout the whole national domain, the efforts of the people through State and local agencies will always be greatly hindered and generally in the end will fail.

But, however that may be, the question considered by the committee is not one primarily touching the merits of the proposed amendment itself, but whether there is a sufficient public sentiment in favor of the submission of the amendment to the action of the people to require the passage of the joint resolution.

The majority of the committee believe that the minds of the most careful and conservative students of the liquor problem are rapidly coming to the conclusion that this evil must and only can be removed by national legislation enforced by the national will in co-operation with the efforts of the State.

In nearly every voting precinct of this country there are American citizens who desire the proposed amendment to the national Constitution. They are determined upon political action. They will have it through existing political organizations, or they will destroy one or both the great parties of to-day and form one which will consent to take the sense of the people upon the question of amending the Constitution so as to give national jurisdiction over the traffic in strong drink. Why should they be denied the opportunity to be heard in the only forum which can pass upon the question? When any considerable and respectable portion of the American people desire to plead their cause in the great tribunal of sovereigns who, in a free country, decide every fundamental issue in the last resort, it is the duty of Congress to enact such preliminary legislation as is here proposed, so that under the forms of the Constitution they can be heard on the question of its own amendment. To deny this is of the very essence of despotism, and for Congress unreasonably to refuse the hearing is just cause of revolution. The people will demand a hearing for every large and respectable minority, and to grant this opportunity is the purpose of this resolution. Whatever may be the result, all must abide by it. But there can be no justification of a denial of the right to be heard.

Until that right is granted, there will be, there can be, no peace to political parties in this country. If there could be, it would prove that the nature of our government was already changed, and that under the forms of a progressive free Republic we are become a hide-bound despotism, having a name to live, but really already dead.

Your committee are unable at this late period of the session properly to present the great cause the promotion of which is the purpose of this resolution. Fortunately it is not necessary. We appeal to the universal sentiment which is the very basis of our political institutions, the right of every voting citizen to be heard at the polls upon every great question which concerns the public weal. Than this there can be none more important, and we earnestly hope the resolution may be adopted in the furtherance of the exercise of the primal rights of American sovereignty, which is that of each citizen to be heard by all, and of any considerable portion of the people to demand a verdict of the whole upon great issues which concern the general weal.

[illegible] CONGRESS, 1st SESSION. | SENATE. | REPORT No. 1[illegible]

IN THE SENATE OF THE UNITED STATES.

AUGUST 14, 1890.—Ordered to be printed.

Mr. EVARTS, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 7058.]

The Committee on the Judiciary, to which was referred House bill 7058, entitled "An act to ratify and confirm an agreement entered into by commissioners on the part of the States of New York and Pennsylvania, in relation to the boundary line between said States," respectfully report that they have considered said bill and recommend its passage.

It appears from official documents, transmitted to the Senate, and to its judiciary committee in the Fiftieth Congress, that the two States have, by legislative acts of ratification, agreed to the adjustment of the boundary between said States substantially as set forth in the preamble of the bill reported—the only difference being in the mere clerical errors not affecting the substance of the affair. The committee, therefore, recommend that the bill pass.

NOTE.

It is proper to say that these documents have not been officially communicated to the committee at this session, but were in the files of the Senate of the Fiftieth Congress.

51st Congress, 1st Session. | SENATE. | Report No. 1586.

IN THE SENATE OF THE UNITED STATES.

August 14, 1890.—Ordered to be printed.

Mr. Manderson, from the Committee on Printing, submitted the following

REPORT:

[To accompany Senate resolution authorizing the Committee on Printing to inquire into the necessity and propriety of printing for the use of the Senate, as a miscellaneous document, a paper prepared by Adolph Hepner, esq., of St. Louis, Mo., on the subject of "Extraterritorial Criminal Jurisdiction and its Effect on American Citizens."]

The Committee on Printing, to whom was referred the above resolution, having considered the same make the following report:

The paper has been prepared with great care, and shows on the part of the author a clear and full comprehension of the subject as well as broad research. The topics treated of in the paper may be thus stated:

(1) The attitude of the United States Government to the subject of extraterritorial jurisdiction.

(2) Foundation of extraterritorial criminal jurisdiction.

(3) French and German legislation on foreigner's foreign offenses against the state.

(4) French law on crimes against the state and its effect on American citizens.

(5) German law on crimes against the state and its effect on American citizens.

(6) The German dynamite law and its connection with the extraterritorial criminal jurisdiction.

The author says that the treatise grew out from study of international law in connection with French and German legislation on "extraterritorial criminal jurisdiction," and the position of the United States, as laid down in the Revised Statutes of the United States, and shown in the noted Mexican-Cutting case in 1886.

In chapter 1 an attempt is made to analyse the attitude of the United States Government in the Cutting case. The criticism proceeds upon somewhat new lines, broadening and restricting certain opinions and views of the President of the United States, who mistakably denied, in his message to Congress, the right of "extraterritorial criminal jurisdiction" at all, though the principle itself is recognized by the Revised Statutes, as shown in the first chapter of the paper, in which a foundation is laid for extraterritorial criminal jurisdiction.

In chapters 4, 5, and 6 French and German legislation on extraterritorial criminal jurisdiction is quoted to show how far said legislation involves a transgression of and interference with our rights.

The author of the paper asks for no kind of compensation now or hereafter from the Government for his paper, which he submits in the hope that the treaties may be of some use to the country, by calling atten-

tion to certain important phases of extraterritorial criminal jurisdiction, and thus possibly help to avoid some unpleasant future conflicts.

The paper when printed in brevier type, in octavo form, will make a pamphlet of forty pages, and will cost, probably, not more than $90 for the "usual number," and about $15 for each extra thousand copies.

The committee report the resolution back with the recommendation that there be printed the "usual number," and one thousand extra copies, which latter shall be placed in the folding-room of the Senate for the use of Senators.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1587.

IN THE SENATE OF THE UNITED STATES.

AUGUST 14, 1890.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany amendment to H. R. 11459 making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1890, and for prior years, etc.]

The Committee on Post-Offices and Post-Roads, to whom was referred the amendment proposed by Senator Mitchell to the above-entitled bill (H. R. 11459) providing therein for the payment of $5,591.20 to the legal representatives of George K. Otis, have examined the same, and report it back with the recommendation that it be referred to the Committee on Appropriations for its favorable action.

The amount in question was withheld from Otis's contract pay as "fines imposed for delinquencies," but as it has been conclusively shown that these "delinquencies" were unintentional, also that the increased service performed by him, and for which he received no additional compensation, greatly exceeded what could have been anticipated (see report on Senate bill 3231), payment of the amount has been several times recommended by the Committee on Post-Offices and Post-Roads and by the Post-Office Department.

O

51st Congress, 1st Session. | SENATE. | Report No. 1588.

IN THE SENATE OF THE UNITED STATES.

August 15, 1890.—Ordered to be printed.

Mr. Cockrell, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 2106.]

The Committee on Military Affairs, to which was referred the bill (H. R. 2106) to remove the charge of desertion against Daniel W. Selleck, have duly considered the same and submit the following report:

This bill directs the Adjutant-General of the United States to place on the muster-rolls of the United States the name of Daniel W. Selleck, to show him a member of Company B, Ninth Regiment Indiana Volunteers, and that all charges of desertion against said soldier be removed.

The following is the official record furnished to the House Committee on Military Affairs in this case:

Case of Daniel W Selleck, late private (musician) Company B, Ninth Indiana Volunteers,

Record and Pension Division, *January* 30, 1890.

Daniel W. Selleck, musician, Company B. Ninth Indiana Volunteers, was enrolled August 27, 1861, to serve three years; re-enlisted as a veteran volunteer in the same company and regiment December 12, 1863, and is reported on company muster-rolls from enrollment to December 31, 1863, present; rolls for January and February, 1864, and March and April, 1864, report him absent without leave since February 26, 1864; roll for May and June, 1864, and muster-out roll of company dated September 28, 1865 (name dropped from intervening rolls), report him deserted May 1, 1864.

He deserted his command May 1, 1864, and did not again return to military control.

Application for an honorable discharge was denied February 22, 1887, in a letter to the Hon. John Lind, M. C., on the grounds that the charge of desertion was not erroneously made; that the case is not covered by the act of July 5, 1884; and that there is no provision of law under which the charge can be removed and a discharge certificate be issued to the soldier.

Application for the removal of the charge of desertion was denied March 30, 1889, in a letter to the same gentleman (Mr. Lind), for the reason that the case is not embraced in the provisions of the act of March 2, 1889.

No evidence has been presented.

This man's status has not changed since the last rejection of application for relief.

Respectfully submitted.

F. C. Ainsworth,
Captain and Assistant Surgeon, U. S. A.

The Secretary of War.

No evidence accompanied the House bill when referred to your committee. Your committee applied to the Secretary of War for additional information in this case, and received in reply the following letter:

War Department,
Washington City, May 10, 1890.

Sir: Referring to your request of the 7th instant for certain information additional to that furnished by this Department on February 20, 1890, in a report to the chairman of the House Committee on Military Affairs on House bill No. 2106, Fifty-first

Congress, first session, authorizing removal of the charge of desertion against Daniel W. Selleck, as a former member of Company B, Ninth Indiana Volunteers, I am directed by the Secretary of War to state that the official records show that this soldier (aged eighteen years) was enrolled August 28, 1861, and mustered in September 5, 1861, to serve three years, as a musician; that he is borne as present for duty as a musician on all muster-rolls of company from the date of his enrollment to April 30, 1863; that he was reduced to the ranks as a private in May or June, 1863, and served as such, re-enlisting as a veteran volunteer December 12, 1863, his age at re-enlistment being given as twenty years—until February 26, 1864, when he absented himself without leave; that he is borne as so absent until May 1, 1864, when he was dropped from the rolls as a deserter.

This soldier has made three applications to this Department for removal of the charge of desertion against him, one direct in March, 1886, another in February, 1887, through Hon. John Lind, M. C., and still another in March, 1889, through the same gentleman, but each application was returned to him or to honorable Mr. Lind, with the information that his case was not embraced within the provisions of the acts of Congress approved July 5, 1884, and March 2, 1889; consequently there is no evidence bearing upon the case on file in this Department.

The Secretary of War, in common with yourself, fails to see the necessity of so much of the bill as requires that the name of this soldier be placed upon the muster-rolls of Company B, Ninth Indiana Volunteers, for, as stated above, his name already appears thereon.

Very respectfully,

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

Hon. F. M. COCKRELL,
United states Senate.

The House report, 532, in this case, states that the claimant was only fourteen years of age at the date of enlistment, and the above official record shows differently. Your committee thereupon advised Senator Davis, who had given a strong indorsement of this claimant to your committee, that there was no evidence of the minority of the claimant at the date of his enlistment and re-enlistment; no evidence that his mother was sick at the time of his return, and nothing to show any justification of the continued absence of Mr. Selleck from his command, and in reply received competent evidence showing that Daniel W. Selleck was born at Silver Lake, Clinton County, N. Y., on the 2d of July, 1846, and consequently was, at the date of his enrollment, August 27, 1861, fifteen years, one month, and twenty-five days old, and at the date of his re-enlistment, on December 12, 1863, was seventeen years, five months, and ten days old, and that he enlisted without the knowledge and consent of his parents, who resided at that time in Marseilles, Ill., and their son was at Calumet, Ind., when he enlisted; and that the father of claimant went to La Porte, Ind., where the regiment was recruiting, to reclaim his son, but the regiment was gone to the front and he was unable to follow; and that when the regiment veteranized and the said Selleckre-enlisted he was granted a veteran furlough with the rest of the veterans and returned to his home; and at that time his mother was ill, confined to her bed by a long sickness and in destitute circumstances, residing in Chicago, and needing the personal care and attendance of their said son; and that the said Selleck came home in extremely cold weather, in freight cars, and his feet were badly frost-bitten, and he was unfit for service for some time thereafter; and before the expiration of the furlough the mother of the claimant attempted to procure a discharge of the said Selleck from the colonel of the regiment, as he was then still under the age of eighteen years, but the colonel refused to have him discharged on account of his long service and re-enlistment, and the ages he had given at the date of enlistment and re-enlistment; and that she claimed the right to have her son at home and retained him at home thereafter; that no concealement was made, and no effort was made by the officers of his company and regiment to secure his return;

and that there were only three brothers, all of whom were in the Army, and two of whom were killed in the service.

Upon the evidence no question can be raised that upon proper application this soldier would have been discharged at the expiration of his veteran furlough.

This bill is very informally drawn, there being no such officer as the "Adjutant-General of the United States," and the company rolls of Company B of said regiment already have the name of Daniel W. Selleck enrolled thereon.

Your committee believe that as a matter of equity and justice the charge of desertion should be removed from the record of this soldier and he should be discharged as of date February 26, 1864, by reason of his being under the age of eighteen years, and that his military record should be accordingly corrected Your committee have therefore prepared a substitute for said bill, and recommend that all after the enacting clause in said bill be stricken out and that the following be substituted therefor:

That the Secretary of War is hereby authorized and directed to remove the charge of desertion from the military record of Daniel W. Selleck, as a private of Company B of the Ninth Regiment of Indiana Volunteers, and substitute therefor "Discharged from the military service on the 26th of February, 1864, by reason of being under the age of eighteen years, and of having enlisted and re-enlisted without the knowledge or consent of his parents," and to issue to said Selleck a discharge as of date February 26, 1864, by reason of being under the age of eighteen years and having enlisted without the knowledge or consent of his parents.

51st Congress, 1st Session. | SENATE. | Report No. 1589.

IN THE SENATE OF THE UNITED STATES.

August 15, 1890.—Ordered to be printed.

Mr. Hale, from the Committee on Appropriations, submitted the following

REPORT:

[To accompany H. R. 11459.]

The Committee on Appropriations, in reporting back to the Senate the bill "making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1890, and for prior years, and for other purposes," submit herewith a statement showing amount of the bill as passed the House of Representatives, and the amount as reported to the Senate, with the items of increase and reduction recommended by the committee, and append various letters and documents relating to the subject-matter of the amendments reported.

Amount of bill as passed the House	$5,230,535.78
Increase (net) made to bill by Senate Committee	1,889,643.61
Total, as reported to Senate	7,120,179.39

The items of increase made to the House bill by the committee are as follows:

INCREASE.

United States and Mexican boundary survey	$75,000.00
United States and Venezuelan claims commission expenses	9,000.00
Contingent expenses of consulates for 1890	40,000.00
Purchase of prehistoric copper implements	7,000.00
Dayton, Ohio, public building	10,000.00
Pittsburgh, Pa., public building	110,000.00
Relief of Samuel Hein	1,285.85
Re-imbursement of North Dakota	10,854.71
Re-imbursement of South Dakota	14,859.80
District of Columbia, miscellaneous items	529.99
Payment of judgments against District of Columbia	1,260.00
Transportation and recruiting, Navy	652.83
Equipment of vessels, Navy	435.00
Provisions, Marine Corps	754.39
Clothing, Marine Corps	527.00
Fuel, Marine Corps	3,330.12
Forage, Marine Corps	317.80
Contingent, Marine Corps	2,968.71
Contingent, Department of the Interior	167.39
Penitentiary building in North Dakota	30,000.00
Improvement of Hot Springs, Arkansas	5,000.00
Payment to Robert Berry, public lands service	1,109.67
Re-imbursement of late superintendent of Yellowstone National Park	169.37
Payment to certain Post-Office Department employés	12,766.80
Payment to M. M. Lynch	101.65
For irrigation investigations	40,000.00
Defending suits in claims against the United States	2,138.55

Payment to Lafayette Dawson, late judge in Alaska	$246.60
Payment to Daniel F. Wyatt, late deputy marshal in Oklahoma	198.00
Payment to district attorneys and assistants	71,615.80
Expenses of the Senate	41,606.12
Payment to telegraph operator of House	300.00
Judgment of Court of Claims	400.00
Fox and Wisconsin river judgments and awards	120,402.70
Payment to E. E. Chapin	787.50
Expenses inspectors, General Land Office	78.21
Pay of the Navy, certified claims	6,595.26
Provisions of the Navy, certified claims	137.55
Supplemental deficiencies (Sec. 4)	140,159.32
French spoliation claims	1,239,688.98
Total increase	2,002,445.67

The items of reduction made in the House bill by the committee are as follows:

REDUCTION.

Expenses of bringing home remains of H. C. T. Nye	$600.00
Lubec Narrows Light Station, Maine	15,000.00
Printing for Territory of Montana	1,772.35
Redemption of unsigned national-bank notes	2,500.00
Payment to Susannah George	365.15
Re-imbursement of life-saving crew at Muskeget, Massachusetts	170.65
Town sites in Oklahoma, expenses	25,000.00
Re-imbursement of B. C. Hobbs	122.50
Payments to widows of deceased members of the House	60,771.41
Payments to official reporters	6,500.00
Total reduction	112,802.06
Net increase made to House bill	1,889,643.61

SMITHSONIAN INSTITUTION.

SMITHSONIAN INSTITUTION, U. S. NATIONAL MUSEUM,
Washington, August 13, 1890.

DEAR SIR: I have received a copy of the amendment to the bill (H. R. 11459) concerning the collection of prehistoric copper implements collected by Mr. Frederick S. Perkins, with your request for an expression of my views upon its subject matter.

From the wording of the amendment it might appear that the money asked for to secure the purchase of the collection represents a deficiency, and that the collection has been already bought by the Smithsonian Institution. This is by no means the case. The Smithsonian Institution declined to buy the collection, because it had no money available. Furthermore, as acting secretary of the Institution, I declined to ask for a special appropriation, for the reason that no such request for the purchase of specimens has ever been made. The collection is now on exhibition in the Archæological Hall of the National Museum, but is still the property of Mr. Perkins. Since, however, you have requested my views upon the subject, I beg leave to make the following statements.

(1) The collection of American prehistoric copper implements belonging to Mr. Frederick S. Perkins consists of 422 specimens. The assemblage is unique, and is beyond all doubt the finest in existence. Mr. Perkins has been engaged in gathering it for twenty years or more. His home is in the richest locality for objects of this character, and he was the pioneer collector. Since he has set the example, many others have followed it, and there are now a large number of small cabinets of a similar character in Wisconsin and elsewhere in the United States. It is doubtful, however, whether all of them combined would make one collection equal in scientific importance to that of Mr. Perkins.

(2) The price asked by Mr. Perkins for his collection ($7,000) represents an average of about $17 for each object. For several of the single objects he has paid $100 or more. The price does not appear to be exorbitant, and it is certain that the collection could not be duplicated for double the amount, if, indeed, it were possible at any price.

Specimens of this kind have of course no fixed commercial value, for there is no standard of comparison, most of the objects being unique.

(3) Special reference may be made to the importance of such collections to science, in connection with the study of prehistoric archæology in this country. The retention of the Perkins cabinet in a public museum in America seems to be essential to the proper study of the original inhabitants of the continent, and indeed it is probable that these very objects may afford a key to the solution of unsettled problems in American archæology. Of especial importance is the light which they may throw upon the study of the use of metals by prehistoric man.

(4) There can be no question that it is desirable that this collection should become the property of the United States, in order that the Government Archæological Museum may be a thoroughly representative one. It would be a misfortune to American science, and in future years would undoubtedly be regarded as a reflection upon this country, if the collection in question should become the property of some foreign government. The transfer of the famous Squier and Davis collection of stone implements to England, some twenty years ago, has ever since been a great regret to Americans.

Should you desire further information, Prof. Thomas Wilson, curator of the archæological collection in the National Museum, will be glad to appear before the committee to explain in full the peculiar merits of the case.

I am, sir, yours very respectfully,

G. BROWN GOODE,
Acting Secretary.

Hon. WILLIAM B. ALLISON,
Chairman Committee on Appropriations, United States Senate.

PUBLIC BUILDING AT DAYTON, OHIO.

TREASURY DEPARTMENT,
August 15, 1890.

SIR: I have the honor to transmit herewith for favorable consideration of Congress, a communication from the Supervising Architect of the Treasury Department, as to the need of providing a further appropriation of $10,000 on account of the construction of the post-office, etc., at Dayton, Ohio, in the deficiency bill now pending.

Respectfully yours,

O. L. SPAULDING,
Acting Secretary.

Hon. WILLIAM B. ALLISON,
Chairman Committee on Appropriations, United States Senate.

TREASURY DEPARTMENT, OFFICE OF THE SUPERVISING ARCHITECT,
Washington, D. C. August 14, 1890.

SIR: I have the honor to request your consideration of the matter of a further appropriation on account of the construction of the post-office, etc., at Dayton, Ohio.

In brief, I may state that an item of $10,000 for the building named was included in the deficiency estimate Executive Document 174, but during the interval a bill was introduced for an appropriation to increase the size of the building, and no provision was made for the appropriation of $10,000 asked. It is believed that no further action has been taken in regard to this extension of limit, and as all preliminary arrangements have been perfected to invite proposals for the supply of the interior finish as originally contemplated it is submitted that an item of $10,000 should be included in the deficiency bill to enable proper procedure with the work.

Respectfully, yours,

JAS. H. WINDRIM,
Supervising Architect.

Hon. WILLIAM WINDOM,
Secretary of the Treasury, Washington, D. C.

COLLECTOR OF CUSTOMS, NEW YORK.

TREASURY DEPARTMENT,
August 14, 1890.

SIR: Under the provisions of section 2722, Revised Statutes, there were appointed in the district of New York the following officers, being in addition to the special deputy naval officer and special deputy surveyor, already in office, viz: Herbert H.

Taylor, deputy naval officer; John W. Corning, deputy surveyor; Avery B. Catlin, deputy surveyor.

The services of these officers were and are still considered necessary to the proper conduct of the customs business at that port, but the honorable Attorney-General, having construed the law as allowing the appointment of only one deputy naval officer and one deputy surveyor at that place, these services were at once discontinued.

The persons employed having, however, been paid by the collector of customs at New York, under the authority of the appointments issued from the Department, out of the appropriations for expenses of collecting the revenue from customs for 1890 and 1891, it is requested that authority be given in the pending deficiency bill to the accounting officers of the Treasury Department, to allow in the disbursing officer's accounts the payments already made, viz, $4,775.96; of which sum $3,960.74 pertains to the fiscal year 1890, and the remainder, $815.22, to the current fiscal year.

The payments were made as follows:

John W. Corning, deputy surveyor, November 1, 1889, to August 9, 1890	$1,936.14
Avery B. Catlin, deputy surveyor, November 1, 1889, to August 9, 1890	1,936.14
Herbert H. Taylor, deputy naval officer, March 31, 1890, to August 9, 1890	903.68

Respectfully, yours,

O. L. SPAULDING,
Acting Secretary.

Hon. WILLIAM B. ALLISON,
Chairman Committee on Appropriations, United States Senate.

RE-IMBURSEMENT OF NORTH DAKOTA.

[House Report No. 2034, Fifty-first Congress, first session.]

The Committee on Territories, to whom was referred the bill (H. R. 9916) to reimburse the State of North Dakota for expenses incurred in holding the constitutional convention in that State in July and August, 1889, submit the following report:

That the constitutional convention of North Dakota was in session forty-five days, while the appropriation made by the Fiftieth Congress to defray the expenses of said convention was only sufficient to pay the mileage of members and their per diem for thirty-one days each, leaving a deficiency of fourteen days for each member, at $4 per day each.

A detailed statement of the expenses over and above the amount appropriated by Congress is herewith given, signed by the president and the chief clerk, respectively, of the said convention:

Hon. JOHN R. BRAY, *Auditor of North Dakota:*

DEAR SIR: The outstanding indebtedness of the constitutional convention of North Dakota is represented by vouchers signed by its president and attested by its chief clerk, and were issued in accordance with the instructions of the convention itself. This indebtedness is grouped as follows:

Per diem of members, fourteen days each	$4,500.00
Per diem of officers and clerks	3,253.00
Per diem of officers and clerks, joint commission	428.00
Per diem of stenographer, joint commission, and transcribing debates of same	369.65
Per diem of stenographer of convention	45,000
Transcribing debates of same	314.86
Printing, balance unpaid	1,539.20
Completing journals and debates, engrossing constitution, and miscellaneous items, as represented by vouchers to Messrs. Goodner, Gowran, Purcell, and the Misses Davidson	750.00
Total	11,604.71

The details of this amount you will find on pages 216–340 and 352, journal constitutional convention, excepting vouchers to Goodner, Gowran, Purcell, and Jewell. There were seventy-five members of the convention. Each has a voucher for $56 except the president, whose voucher is $84.

You will find the names of members on pages 2 and 3, journal.

Respectfully,

F. B. FANCHER,
President Constitutional Convention of North Dakota.

Your committee therefore recommend that House bill No. 9916 be amended by striking out "ten thousand eight hundred and fifty-four dollars and seventy-one cents," in lines 7 and 8, and inserting the words "eleven thousand six hundred and four dollars and seventy-one cents."

NAVY DEPARTMENT.

NAVY DEPARTMENT,
Washington, August 2, 1890,

SIR: Since the transmission to the honorable the Secretary of the Treasury of estimates for deficiencies under this Department, an outstanding voucher for equipment supplies has been presented, and other slight indebtedness for transportation has, necessarily, been incurred, for the payment of which provision should be made by Congress.

Inclosed herewith is a copy of a letter from the Chief of the Bureau of Equipment, dated the 30th ultimo, also a copy of one from the Chief of the Bureau of Navigation, dated the 1st instant, explaining the indebtedness.

I have therefore the honor to request that the general deficiency bill may be amended, when it reaches the Senate, so as to provide for these deficiencies, by inserting under Bureau of Equipment the following clause:

"To pay bill of S. C. Forsaith Co., reservation on vouchers for five thousand feet of hose, delivered at the New York navy-yard, under their contract of September twenty-second, eighteen hundred and eighty-eight, for the service of the fiscal year ending June thirtieth, eighteen hundred and eighty-nine, four hundred and thirty-five dollars."

Also, that under the Bureau of Navigation the amount proposed to be appropriated for transportation and recruiting may be increased from $1,000 to $1,652.83.

Very respectfully,

J. R. SOLEY,
Acting Secretary of the Navy.

Hon. W. B. ALLISON,
Chairman of the Committee on Appropriations, U. S. Senate.

NAVY DEPARTMENT, BUREAU OF EQUIPMENT,
Washington, July 30, 1890.

SIR: The bureau is informed by the Paymaster-General of the Navy that there is due to the S. C. Forsaith Machine Co. the sum of $435, chargeable to appropriation equipment of vessels, 1889, being the amount reserved from vouchers for 5,000 feet hose delivered at the New York navy-yard under their contract of September 22, 1888.

In order that provision may be made for the payment of this indebtedness, I have the honor to recommend that the Secretary of the Treasury be requested to have the name and amount added to the list of bills already submitted for which deficiencies are asked by this bureau under the above-mentioned appropriation.

Very respectfully,

GEO. DEWEY,
Chief of Bureau.

The SECRETARY OF THE NAVY.

BUREAU OF NAVIGATION, NAVY DEPARTMENT,
Washington, August 1, 1890.

SIR: Referring to the item of $1,000 in the bill to supply deficiencies in the fiscal year 1890 under the appropriation "Transportation and Recruiting, 1890," I have the honor to state that since that amount was requested returns showing the following indebtedness under "Transportation and Recruting, 1890," have been received, viz:

Transportation of thirty-one men from San Francisco to New York, amounting to	$1,240.00
From vessels and stations	412.83
Total	1,652.83

It is therefore requested that the amount $1,000 be increased to $1,652.83.

Very respectfully, your obedient servant,

F. M. RAMSAY,
Chief of Bureau.

The SECRETARY OF THE NAVY.

MARINE CORPS.

NAVY DEPARTMENT,
Washington, August 6, 1890.

SIR: I have the honor to inclose herewith additional estimates of deficiency appropriations required for the Quartermaster's department of the Marine Corps for the service of the fiscal year 1890.

These estimates are explained in a letter addressed to the Department on the 5th instant by Maj. H. B. Lowry, quartermaster of the corps, a copy of which is also inclosed, and are approved by Lieut. Col. Charles Heywood, in the absence of the commandant of the corps.

These sums required are in addition to those reported in the general deficiency bill now under consideration in the House of Representatives, and I have the honor to request that when that bill reaches the Committee on Appropriations of the Senate, it may be amended under the head of "Marine Corps" so as to provide for the deficiencies in question and meet the liabilities incurred.

Very respectfully,

J. R. SOLEY,
Acting Secretary of the Navy.

Hon. WILLIAM B. ALLISON,
Chairman of the Committee on Appropriations.

DEFICIENCIES.

QUARTERMASTER'S DEPARTMENT,
Washington, August 4, 1890.

Estimates of Appropriations required for the service of the fiscal year ending June 30, 1890, *by the Quartermaster's Department, U. S. Marine Corps.*

Provisions: To pay accounts on file for advertising, and for reservations on accounts for provisions	$754.39
Clothing: To pay accounts on file for advertising, and to re-imburse Quartermaster-General's Department, U. S. Army, for clothing transferred to U. S. Marine Corps	527.00
Fuel: To pay accounts on file for advertising, and for reservations on accounts for fuel	3,330.12
Forage: To pay accounts on file for advertizing and for reservations on accounts for forage	317.80
Contingent: To pay accounts on file for advertising, and for gas, water, straw, freight, etc	2,968.71
Total	7,898.02

Respectfully submitted,

H. B. LOWRY,
Major and Quartermaster U. S. Marine Corps.

HEADQUARTERS U. S. MARINE CORPS, COMMANDANT'S OFFICE,
August 4, 1890.

Approved. Forwarded by direction of Secretary of Navy.

CHARLES HEYWOOD,
Lieutenant-Colonel U. S. Marine Corps.

HEADQUARTERS U. S. MARINE CORPS,
QUARTERMASTER'S OFFICE,
Washington, D. C., August 5, 1890.

SIR: The Department's letter of the 4th instant, addressed to the Commandant of the Marine Corps, has been referred to this office; in reply, and in connection with its subject-matter, I would respectfully state, that the deficiency estimates, fiscal year 1889-'90, submitted under yesterday's date, are explainable as follows:

Congress authorized in the appropriation bill for the support of the Navy, approved

March 2, 1889, an addition to the strength of the corps, of one hundred privates, thus increasing the number from one thousand five hundred to one thousand six hundred, but failing to provide by a proportional appropriation for the clothing, provision, fuel, etc., made necessary by the increase; sufficient money, however was available to meet the incidental expenses in that connection, except the 20 per cent. reservation retained, as provided for in all existing contracts.

The bills for advertising for supplies, namely, "provisions, clothing, fuel, forage, and contingencies," have been divided, in order that each class of supplies may be charged with its proportional expense.

In addition to the causes of the deficiency above stated, I may add that over $1,000 was transferred by the Treasury Department from the appropriation "contingent" Marine Corps, to meet expenses (properly chargeable to said appropriation), but of which, however, this office had no information until near the end of the fiscal year.

The amount due the Quartermaster's Department, U. S. Army, is for undershirts and socks, received from the Army upon the request of this office made with the approval of the honorable Secretary of the Navy.

In connection with the above statement, I respectfully call your attention to the increase of the amounts appropriated for present fiscal year, as compared with that appropriated for previous fiscal year, wherein it will be seen that in the item of provisions the increase is $5,274.47; in that of clothing $10,000; and of fuel $2,000.

Very respectfully,

H. B. LOWRY,
Major and Quartermaster, U. S. Marine Corps.

Hon. B. F. TRACY,
Secretary of the Navy.

HEADQUARTERS U. S. MARINE CORPS, COMMANDANT'S OFFICE,
August 5, 1890.

Forwarded by direction of the Secretary of the Navy.

CHARLES HEYWOOD,
Lieutenant-Colonel, U. S. Marine Corps.

HOT SPRINGS, ARKANSAS.

[Senate, Ex. Doc. No. 208; 51st Congress, 1st Session.]

Letter from the Secretary of the Treasury, transmitting an estimate from the Secretary of the Interior for an appropriation of $5,000 for protection and improvement of Hot Springs, Arkansas.

TREASURY DEPARTMENT,
August 11, 1890.

SIR: I have the honor to transmit herewith, for the consideration of Congress, copy of a communication from the Secretary of the Interior of the 9th instant, submitting an estimate of appropriation in the sum of $5,000 for protection and improvement of Hot Springs, Arkansas.

Respectfully, yours,

W. WINDOM,
Secretary.

The PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR.
Washington, August 9, 1890.

SIR: I have the honor to transmit herewith for favorable consideration by Congress the following estimate, amounting to $5,000 for material, labor, etc., necessary to the completion of the pumping station in process of construction on the Hot Springs Reservation. The appropriation of $31,000, sundry civil act of October 2, 1888, for providing a system of reservoirs, pumps, and piping, and for other purposes, necessary to the collection and economical distribution of the hot water on the Hot Springs Reservation at Hot Springs, Ark., is entirely inadequate for such purpose. Existing contracts for pumping-engines and boilers, erection of engine-house, and impounding reservoirs, excavation, furnishing of pipes, together with extra work re-

sulting from necessary changes in plans will absorb the available balance of $29,934.75, leaving the Department without funds to provide for laying of mains, providing of foundations for engines, and other expenses incidental to the prosecution of the work not included in the contracts.

Very respectfully,

GEO. CHANDLER,
Acting Secretary.

The SECRETARY OF THE TREASURY.

Estimates of appropriations required for the service of the fiscal year ending June 30, 1891, by the Department of the Interior.

Detailed objects of expenditure, and explanations.	Total amount to be appropriated under each head of appropriation.	Amount appropriated for the fiscal year for which the appropriation is required.
Protection and improvement of Hot Springs, Ark., (pumping station): For laying of mains, purchase of pipe and valves, providing foundations, for pumping-engines, expense of superintendence of construction of work, and other expenses incidental thereto (October 2, 1888)	$5,000.00	$31,000.00

PAYMENT TO O. M. LARAWAY.

[House Report No. 2362, Fifty-first Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 1934) for the relief of O. M. Laraway, would repectfully report:

This bill, as amended and passed by the Senate at this session, directs the officers of the Post Office Department to credit to the account of O. M. Laraway, late postmaster at Minneapolis, Minn., the sum of $11,115.38, being the value of certain postal funds which were stolen from the safe in said post-office on the 8th day of July, 1886. These postal funds, as they are called (postage-stamps), it is alleged were stolen without the fault of said postmaster. The facts, with the opinion of Hon. William F. Vilas, Postmaster-General under the last administration, are set forth in a letter dated January 6, 1887, as follows:

"On the night of the 8th of July, 1886, the post-office at Minneapolis, Minn., was entered by burglars and postage-stamps to the amount, as near as can be ascertained, of $15,330, with which O. M. Laraway, then postmaster, is charged in his accounts with this Department, were stolen, and the same have not, nor has any part thereof, been recovered by him.

"The late postmaster has presented his claim to this Department, under the provisions of the act of March 17, 1882, entitled 'An act authorizing the Postmaster-General to adjust certain claims of postmasters for loss by burglary, fire, or other unavoidable casualty' (22 Stat., 29), for credit for the amount of stamps thus lost.

"The claim has been carefully investigated by this Department and the facts ascertained. It appears that said burglary actually occurred, and that the loss in stamps is satisfactorily proved to be as large as claimed and above stated. According to the principles applied by this Department in the consideration of such claims under said act as the Postmaster-General is authorized to adjust, it does not appear that the postmaster was guilty of such fault or negligence in the premises as to prejudice his claim for relief.

"Pursuant to the requirement of said act I herewith transmit said claim to Congress, together with the reports, affidavits, and depositions pertaining thereto, and a summary of the facts and opinion thereon by the Assistant Attorney-General of this Department, and I respectfully recommend that credit on the account of said O. M. Laraway to the amount of $15,330 be authorized and appropriation made therefor."

The above letter was addressed to Hon. J. G. Carlisle, Speaker of the House of Representatives, and was written in compliance with a request for information from a committee of this House.

Hon. Edwin E. Bryant, Assistant Attorney-General for the Post-Office Department, on consideration of the facts, submitted the following opinion:

OPINION.

By the evidence submitted in this case, including the depositions taken before the United States commissioner at Minneapolis, Minn., it appears to be clearly proved—

(1) That the post-office was entered on the morning of July 9, 1886, in the night-time, between the hours of 1 and 3 o'clock, and one of the safes therein, containing a large quantity of postage stamps, was drilled, and its combination lock broken and forced open by expert burglars, and the contents, consisting of postage-stamps, were taken by the burglars and carried away.

(2) That the amount of stamps taken was probably as much as the postmaster claims, viz, $15,330. The testimony of the postmaster and his clerk employed in the sale of stamps is quite positive, and their data appear to be accurate, that that amount was taken. The inspectors who investigated the case are also satisfied that the loss was fully as great as claimed. The Department estimate of the loss places it at about $1,130 less than the postmaster claims; but it is to be noted that the Department estimate is based upon average daily sales for the preceding two quarters, while the postmaster's estimate rests upon his actual sales from the first day of the quarter. Besides, the quantity in the safe which was broken open is positively sworn to by two witnesses. The loss can be safely estimated at $15,330, the amount claimed by the postmaster.

(3) There is nothing in the evidence pointing to a suspicion that the postmaster or any of his clerks or employés were in collusion with the burglars or in any way implicated in the robbery.

(4) It does not appear that any fault or negligence can be imputed to the postmaster. The safe in which the stamps were kept was carefully locked; it was one which the Department furnished to this post-office expressly for use in storing stamps. The stamp-clerk's office was in a somewhat exposed part of the building, but this seems to have been necessary for the public convenience. The post-office inspectors call attention to the fact that no watchman was provided for the interior of the building, although the four safes each contained several thousand dollars' worth of stamps and that no one was kept on duty after a late hour of the night. In view of all the circumstances, I am not prepared to say that this was a negligence on the part of the postmaster. No allowance for a night watchman was made to him. Usually there was a private watchman employed by the owner of the building, on duty in and about the building and its vicinity, and the postmaster had every reason to suppose that he was on duty that night, although, by reason of sickness in his family, he was not. A policeman of the city had his beat in front of the post-office, and had he not retired within a hallway near by his attention would probably have been attracted to the work of the burglars.

With such safeguards about the office the postmaster was justified, in my judgment, in keeping the property in the manner he did. Furthermore, it was usual for one of the distributing clerks to work in the post-office during the night and until after daylight in the morning, but on this occasion he left the office earlier than usual, by permission of the superintendent of the mails. But the postmaster had every reason to suppose that there was some one in the post-office during the hours in which the burglary was consummated.

These facts appear to me to warrant the postmaster in supposing that the building was properly guarded against burglary, and to exonerate him from maintaining at his own expense a watchman in the post-office. And under the circumstances it was not negligence to permit the door of the lobby to be left open during the night. This is a quite usual practice, and has been the custom at this post-office for many years, and in so public a place, with a private watchman and a policeman patrolling near by, and a night clerk usually at work within, the permission of this practice was not an act of negligence, at least of so grave a character that it should throw the onus of this loss upon the postmaster.

I have therefore the honor to advise that this claim is one proper to be recommended to Congress under the act of Congress approved March 17, 1882 (22 Stat., 29), for allowance of credit to the amount claimed.

EDWIN E. BRYANT,
Assistant Attorney-General, Post-Office Department.

Executive Document No. 76, Forty-ninth Congress, second session, House of Representatives, sets forth at length the testimony taken upon this claim.

A careful study of the evidence set forth in that document confirms the opinion as expressed above by Postmaster-General Vilas and by Assistant Attorney-General Bryant. The case was carefully investigated first by two post-office inspectors and later by the chief post-office inspector, who acted with the United States attorney for that district, with the object of determining whether the negligence of the post-master

contributed to the loss. All seem to have concluded that the postmaster was not guilty of negligence.

With this evidence for a basis Congress made an appropriation re-imbursing Mr. Laraway, in the deficiency bill passed on the 3d of March, 1887, but which, failing to receive the President's signature, did not become a law.

Your committee therefore recommend the passage of the Senate bill.

UNITED STATES DISTRICT ATTORNEYS AND ASSISTANTS.

DEPARTMENT OF JUSTICE,
Washington, D. C., August 12, 1890.

SIR: Inclosed are copies of letters of July 28 and August 1, 1890, addressed to the Secretary of the Treasury, to be presented to the Speaker of the House of Representatives, respecting deficiencies in the appropriations under this department that are required for the payment of accounts incurred prior to July 1, 1890.

The letter of July 28, 1890, sets forth the desired appropriations.

For special compensation of district attorneys for fiscal year—	
1890	$5,000.00
1889	3,599.95
1888	2,900.00
1887	630.00
1886	430.00
1885	610.00
1884	2,600.00
	15,769.95
Pay of assistant attorneys, 1888	440.00
Pay of regular assistant attorneys, 1890	3,000.00
Services special assistant attorneys—	
1890	13,000.00
1889	16,931.47
1888	7,013.63
1887	4,796.20
1886	1,700.00
Total	43,440.70

These deficiencies are the result of employed counsel, official and special, in cases in which the United States was interested for the fiscal years mentioned, and in which the district attorney was unable to perform the services alone, or was not bound to perform the same under the fee bill.

They have been omitted from the deficiency bill passed by the House of Representatives at the present session. If it is desirable that the Attorney-General shall employ special counsel in important cases at the request of the heads of Departments, and upon the representations of Senators and members as to the urgent necessity of such employment, it seems to be equally desirable that the Department shall be furnished with funds to pay for the services so rendered under such employments. If these accounts can not be paid, it leaves the Department in the embarassing situation of having employed men whom it can not pay.

If these accounts are not to be paid I shall assume that this Department ought not to incur further liabilities in the employment of special counsel. I do not see how I can reasonably ask competent counsel to engage in the service of the Government when I can not assure them that their services will be compensated. The action of Congress in this matter will control my future action in the employment of counsel in cases where United States interests are involved.

It is understood that the deficiency bill passed by the House appropriates money for United States commissioners for the years 1888, 1889, and 1890.

It is also understood that the deficiency bill omits the item of miscellaneous expenses for 1890, $25,000. Perhaps the omission arose (as intimated by the Appropriation Committee of the House) from a consideration that this appropriation being under the control of the Attorney-General he ought not to exceed in his expenditures the amount appropriated under section 3679, Revised Statutes, which forbids the head of a Department from involving the Government in any contract for the future payment of money in excess of an amount appropriated.

The letter of July 28, 1890 (copy inclosed), third page states that many of these expenses can not be controlled by the Attorney-General.

They are incurred without his knowledge, and are approved by him subsequently because the expense appears to be necessary and reasonable in amount. You notice that this deficiency is estimated at $25,000. During the last fiscal year there was expended from this appropriation $3 ,114.25 for the use of the Supreme Court of the United States. This expense was chiefly incurred by that court under section 680 Revised Statutes, that permits the marshal of that court, with the approval of the Chief-Justice, to appoint assistant marshals and messengers to attend court. In this the marshal acts independently of the Attorney-General, and depletes the appropriation *ad libitum*. Herewith inclosed are copies detailing the expenses of that court paid out of this fund during the first, second, and third quarters of the fiscal year 1890. It is estimated by the marshal of that court that $6,500 more will be needed for the last fiscal year. This sum is a part of the $25,000 needed. The remainder of the amount is distributed among the United States courts of the States, for payment of experts, stenographers, interpreters, and janitors' services, chiefly.

Every week brings an inquiry from some court respecting these claims.

The last paragraph of letter July 28, 1890, asks for the sum of $2,138.55 as a deficiency in the appropriation for defending suits in claims against the United States in 1890. This is omitted from the deficiency bill. A copy of the letter transmitting this account to the Secretary of the Treasury is inclosed, and explains itself.

Your attention is directed to Department letter of the 1st instant, a copy of which is herewith inclosed, asking the Secretary of the Treasury to state to the Speaker of the House that there were certain bills in this Department amounting to $8,965.15 that did not fall under any appropriation under its control. These accounts are for legal services performed by attorneys in the interest of the United States at times when there was no district attorney or assistant district attorney to discharge the duties; or services performed, in one case, by an attorney at the request of a district attorney under an expected appointment by the Department of Justice, which was, by inadvertence, not made; or were services rendered in cases which the United States had an incidental or secondary interest, such as defending Indian rights or Government officers.

In my judgment all of these claims in the amounts stated ($8,965.15) are correct and just.

The services were necessary, and I think should be paid.

In conclusion, I beg to say that the amount of the regular appropriation for special assistant attorneys ($20,000 for 1890) is not only insufficient, but known to be so when made. A deficiency appropriation has always been necessary, and has been made. This insufficiency is made more palpable each year, as bills are passed providing for many new terms of court, and especially requiring the Attorney-General to undertake very important new litigation, such as under the interstate-commerce law, settling the relation of the telegraph companies to land-grant railroad companies, and settling titles to Indian lands, as in Black Bob case, etc.

Very respectfully,

W. H. H. MILLER,
Attorney-General.

The PRESIDENT OF THE SENATE.

TREASURY DEPARTMENT, SECOND COMPTROLLER'S OFFICE,
Washington, D. C., August 14, 1890.

SIR: I have the honor to inclose herewith a letter to me from the honorable Fourth Auditor, also a copy of a letter to Hon. David B. Henderson, inviting attention to the fact that there was no provision made for the payment of the claims reported in Executive Document 144, Fifty-first Congress, first session, commencing with John Baker, No. 141, on page 138, and extending down to and including Charles Zang, No. 4, on page 140, amounting to $6,595.26, "Pay of the Navy, certified claims."

When Mr. Henderson was informed of the omission, he stated that it was then too late to act in the matter, that there would be no meeting of the committee before action was taken on the bill by the House, and that I should report the matter to the Senate Committee on Appropriations, and ask to have the amount included in the Senate bill. The letter to Mr. Henderson fully sets forth all the facts.

I have the honor to be, very respectfully,

B. F. GILKESON,
Comptroller.

Hon. WILLIAM B. ALLISON,
Committee on Appropriations.

TREASURY DEPARTMENT, FOURTH AUDITOR'S OFFICE,
Washington, D. C., August 12, 1890.

SIR: I have the honor to call your attention to the fact that in the general deficiency bill recently passed by the House of Representatives, no provision is made for the payment of claims reported in House Executive Document 144, Fifty-first Congress, commencing with John Baker, number 141, on page 138, and extending to and including Charles Zang, number 4, on page 140, amounting to $6,595.26, "Pay of the Navy, certified claims."

There is also omitted in the bill an item of $137.55, under "Provisions of the Navy, certified claims", on page 142, same document, as follows:

No. 156, John Harrington	$5.25
No. 37, Charles W. Livermore	70.50
No. 116, Frank M. Perry	1.80
No. 54, Christopher Stem	60.00

I would respectfully suggest, if it meets your approval, that you advise the Chairman of the Committee on Appropriations of the Senate of the omission, with such recommendation as you may think proper.

Respectfully yours,

JOHN R. LYNCH,
Auditor.

Hon. SECOND COMPTROLLER, *Treasury Department.*

TREASURY DEPARTMENT, SECOND COMPTROLLER'S OFFICE,
Washington, D. C., July 25, 1890.

SIR: I have the honor to invite your attention to House bill No. 11459, making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1890.

It appears from an examination of the bill that there is no provision made for the payment of the claims reported in Executive Document 144, Fifty-first Congress, first session, commencing with John Baker, No. 141, on page 138, and extending down to and including Charles Zang, No. 4, on page 140, amounting to $6,595.26, "Pay of the Navy, certified claims."

The most of these claims are for amounts due enlisted men of the Navy and Marine Corps, who have been relieved from the charge of desertion by the Secretary of the Navy under the act of August 14, 1888 (25 Stat., 442). I am advised that there is no claim for sea pay on receiving-ships included in this amount.

In order, however, to guard against any claim for sea pay on receiving-ships being inadvertently included, I have the honor to suggest the following as the form of appropriation:

"PAY OF THE NAVY, CERTIFIED CLAIMS.

"Commencing with number one hundred and forty-one, on page one hundred and thirty-eight, and including number four, on page one hundred and forty, of Executive Document one hundred and forty-four, Fifty-first Congress, first session, six thousand five hundred and ninety-five dollars and twenty-six cents, *Provided:* That no part of this sum shall be used for the payment of any claim for sea pay on receiving-ships, or for the payment of any claim which may have been allowed under the decisions of the Supreme Court which have been adopted by the accounting officers as a basis for the allowance of said claims which accrued prior to July sixteenth, eighteen hundred and eighty."

There is also omitted from the bill $137.55, under Provisions of the Navy, certified claims, on page 142 of said Executive Document, as follows:

No. 156, John Harrington	$5.25
No. 37, Charles W. Livermore	70.50
No. 116, Frank M. Perry	1.80
No. 54, Christopher Stem	60.00
Total	137.55

There is, I am advised, no question of rations on receiving-ships in these cases; but for the same reasons as hereinbefore stated, I have the honor to suggest that the appropriation be made in the following form:

"PROVISIONS OF THE NAVY, CERTIFIED CLAIMS.

"To pay claims due the following-named persons, reported in Executive Document one hundred and forty-four, Fifty-first Congress, first session, at page one hundred

and forty-two: Number one hundred and fifty-six, John Harrington; number thirty-seven, Charles W. Livermore; number one hundred and sixteen, Frank M. Perry; number fifty-four, Christopher Stem; one hundred and thirty-seven dollars and fifty-five cents: Provided, that no part of this sum shall be used for the payment of any claim for rations on receiving-ships, or for the payment of any claim which may have been allowed under the decisions of the Supreme Court, which have been adopted by the accounting officers as a basis for the allowance of said claims which accrued prior to July sixteenth, eighteen hundred and eighty."

My object in calling your attention to this matter at this time is because I am persuaded that the committee, through some oversight, have omitted these claims, and as, in my view, such omission would be an act of great injustice to the claimants, I respectfully beg leave to call your attention to the matter.

I sent Mr. French, of this office, up this morning to see you in relation to the matter, but, not finding you in the committee room, he spoke to the clerk of the committee, Mr. Courts, in reference thereto, and at his suggestion this letter is written.

I trust that you will not regard this letter as any attempted interference upon my part with the appropriation bills before Congress, or in any way to influence the action of the committee in relation thereto. My idea was that the matters herein referred to had, by some oversight, been inadvertently ommitted from the bill, and that you would be glad to have your attention called to any such omission.

I have the honor to be, very respectfully,

B. F. GILKESON,
Comptroller.

Hon. DAVID B. HENDERSON,
Committee on Appropriations.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1590.

IN THE SENATE OF THE UNITED STATES.

AUGUST 15, 1890.—Ordered to be printed.

Mr. HAWLEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 4229.]

The Committee on Military Affairs, to whom was referred the bill (S. 4300) granting a right of way on Fort Douglas Reservation, in the Territory of Utah, having had the same under consideration, recommend that it be passed with two amendments.

The Secretary of War (August 8, 1890) and the Major-General commanding the Army, approve the bill as amended.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1591.

IN THE SENATE OF THE UNITED STATES.

AUGUST 16, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6992.]

The Committee on Pensions, to whom was referred the bill (H. R. 6992) granting a pension to Susan E. Freeman have examined the same and report:

The report of the the Committee on Pensions of the House of Representatives hereto appended is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 6992) granting a pension to Susan E. Freeman, have considered the same and report:

The claimant's late husband, Roberson Freeman, was a private in Capt. John Cunton's company (Monroe Muskéteers), Maj. Mark A. Cooper's batallion, Georgia Volunteers, Florida war, from February 18, 1836, to May 15, 1836.

The claimant asks that she be granted a pension on account of her husband's said service, and in support of her application Mr. McRae, a Representative in Congress from the State of Arkansas, states that she is quite old, the possessor of no income, and dependent upon others for support.

There are numerous precedents for this legislation, and your committee report the bill back with the recommendation that it do pass, amended, however, so as to allow her a pension of $12 per month.

O

51st Congress, 1st Session. | SENATE. | Report No. 1592.

IN THE SENATE OF THE UNITED STATES.

August 16, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5851.]

The Committee on Pensions, to whom was referred the bill (H. R. 5851) granting a pension to Mathew Lambert, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives hereto appended is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 5851) granting a pension to Mathew Lambert, have considered the same and report:

The claimant was (as shown by the records of the War Department) a private in Capt. R. B. Simms's company, Col. Walter Smith's regiment Mounted Alabama Volunteers, Creek war, 1836, from May 30, 1836, to July 22, 1836.

It is shown that Mr. Lambert is about seventy-five years old, in feeble health, unable to earn a support, and with no income.

There are precedents for the allowance of pensions to the aged and destitute survivors of the old Indian wars, and your committee therefore report the bill back with the recommendation that it do pass.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1593.

IN THE SENATE OF THE UNITED STATES.

AUGUST 16, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 792, granting a pension to Martha J. Dodge, of St. Louis, Missouri.]

It appears that Miss Dodge was detailed by a commission signed by Mrs. D. P. Livermore, Mrs. A. L. Hoge, and Mrs. James E. Yeatman, of the Chicago Sanitary Commission, as an army nurse, and assigned to duty at Murfreesborough, Tenn., March 19, 1863, and served faithfully until the close of the war. She is now sixty-nine years old, and is supported by the Woman's Relief Corps, of St. Louis, Mo.

Your committee recommend the passage of the bill.

Her residence is 4830 North Broadway, St. Louis, Mo.

O

51st Congress, 1st Session. | SENATE. | Report No. 1594.

IN THE SENATE OF THE UNITED STATES.

August 16, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4853.]

The Committee on Pensions, to whom was referred the bill (H. R. 4853) granting a pension to Gabriel Stephens, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 4853) granting a pension to Gabriel Stephens, have considered the same and report as follows:

The claimant was a private in Capt. J. W. Pierson's company, Colonel Lindsay's regiment, Tennessee Mounted Volunteers, Cherokee war, and served from March 1, 1838, to June 29, 1838.

It is shown that the claimant is very old, quite feeble, very poor, unable to labor, and without income.

Your committee have recognized the equity of applications of this character by favorably reporting to the House at this session a general bill having for its object the pensioning of the survivors of the old Indian wars.

The passage of the bill for the relief of Gabriel Stephens is respectfully recommended.

O

51st Congress, 1st Session. | SENATE. | Report No. 1595.

IN THE SENATE OF THE UNITED STATES.

August 18, 1890.—Ordered to be printed.

Mr. Manderson, from the Committee on Printing, submitted the following

REPORT:

[To accompany Senate resolution to print 5,000 copies of the Rules of the Senate in pamphlet form, separately.]

The Committee on Printing, to whom was referred the above resolution, report it back with the recommendation that it do pass.

The probable cost will be $113.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1596.

IN THE SENATE OF THE UNITED STATES.

AUGUST 18, 1890.—Ordered to be printed.

Mr. MANDERSON, from the Committee on Printing, submitted the following

REPORT:

[To accompany Senate resolution authorizing the printing of 750 additional copies of H. R. 9014, to define and regulate the jurisdiction of United States courts, for the use of the Senate.]

The Committee on Printing, to whom was referred the above resolution, having considered the same, report it back with the recommendation that it do pass.

The cost of the printing will be about $20.

O

51st Congress, 1st Session. | SENATE. | Report No. 1597.

IN THE SENATE OF THE UNITED STATES.

August 18, 1890.—Ordered to be printed.

Mr. Manderson, from the Committee on Printing, submitted the following

REPORT:

[To accompany bill (S. Concur. Res.) authorizing the printing of three thousand copies of the testimony taken by the Select Committee on Relations with Canada, one thousand copies for the Senate and two thousand copies for the House.]

The Committee on Printing to whom was referred the above Concurrent Resolution, having considered the same, report it back with the recommendation that it do pass.

The probable cost of the printing, as estimated by the Public Printer, is $2,037.

O

51st Congress, 1st Session. | SENATE. | Report No. 1598.

IN THE SENATE OF THE UNITED STATES.

August 19, 1890.—Ordered to be printed.

Mr. Frye, from the Committee on Commerce, submitted the following

REPORT:

[To accompany S. 4312.]

The Committee on Commerce, to whom was referred S. 4312, to provide American registers for the steamers *Stroma* and *Marco Aurelia*, having considered the same and accompanying evidence, report as follows:

The steamer *Stroma* was built in Yoker, Glasgow, Scotland, in 1883, by Napier, Shanks & Co., and was originally owned by an English firm, the Napier Shipping Company, Limited. While employed in their service she was wrecked in the harbor of Colon, Panama, and was so seriously injured that she filled and sank to the bottom.

Shortly after this the *Stroma* was purchased by Macheca Brothers, American citizens and residents of New Orleans, La., and was by them raised and taken to Erie Basin, New York, for repairs. These were made by Donald McNeil & Bro., and Henry Brothers, and amounted to $47,182, as evidenced by sworn affidavits and vouchers submitted to the committee. The vessel's present appraised value is $50,000, but owing to the fact that she was not wrecked in American waters her owners can not obtain an American register for her under the general statute. The *Stroma's* gross tonnage is 958 tons.

The steamer *Marco Aurelia* was formerly the Mexican steamer Merida, and was built in 1881, by Scott & Co., of Glasgow. She was originally owned by William Binney, of London, England. She is a vessel of 725 tons gross register.

The *Marco Aurelia* was wrecked in the Gulf of Mexico during a terrific storm in February, 1890, and was disabled to such an extent that she was towed into the port of New Orleans as a wreck, where she was surveyed and condemned as being unseaworthy and unfit for navigation.

She was repaired at a cost of $27,000, at New Orleans; was libeled by the repairers, who were American citizens, and sold at public sale May 5, 1890, by the United States marshal, by virtue of an order of the United States district court, to satisfy cost of repairs.

She was purchased by Macheca Brothers, doing business at No. 127 Decatur street, New Orleans, for the sum of $27,000, which brings her within the requirements of the general law so far as the expenditure of American capital is concerned in connection with American labor, except that the injuries sustained by said vessel occurred outside of American waters.

Your committee report back the bill and recommend its passage.

O

51st Congress, 1st Session. | SENATE. | Report No. 1599.

IN THE SENATE OF THE UNITED STATES.

August 20, 1890.—Ordered to be printed.

Mr. Bate, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 3857.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3857) to provide for the disposal of a portion of the United States military reservation at Baton Rouge, La., having considered the same, report:

This is a bill in which it is proposed to transfer title from the United States to the congregation of St. Joseph's Catholic Church, of Baton Rouge, La., certain ground now included in the United States military reservation, and occupied as a burial ground.

As stated in the report of the House Committee on Military Affairs—

The occupation by the church of the ground for the purpose above stated existed, according to the testimony of the oldest citizens and traditions of the said church, prior to the acquisition of the said reservation by the United States. The Catholic congregation held undisturbed possession of their grave-yard until 1862, when the exigencies of war required the tombs to be leveled to the ground in order that the post at Baton Rouge could be more easily defended. The purpose of this bill is to restore to this church the title of the said grave-yard in order that it may no longer be subject to desecration, and that it may hereafter be protected.

There appears no reason why the prayer of this bill should not be granted. Upon the contrary, to grant it simply means to give to these people again control of the ground where their dead are buried, and of which they had the use and occupancy before taken possession of for military purposes.

Your committee recommend the passage of the bill.

[House Report No. 849, Fifty-first Congress, first session.]

This bill proposes to transfer title from the United States, if it has any, to the congregation of St. Joseph's Catholic Church, of Baton Rouge, La., to a certain parcel of ground now included in the United States military reservation, used and occupied for time immemorial as a burial-ground or grave-yard.

The occupation by the church of the ground for the purposes above stated existed, according to the testimony of the oldest citizens and traditions of the said church, prior to the acquisition of the said reservation by the United States. The Catholic congregation held undisturbed possession of their grave-yard until 1862, when the exigencies of war required the tombs to be leveled to the ground in order that the post at Baton Rouge could be more easily defended. The purpose of this bill is to restore to this church the title of the said grave-yard in order that it may no longer be subject to desecration, and that it may hereafter be protected. The committee suggest the following amendment: In section 1, line 21, after the word "forever" add the following "unless hereafter required by the Secretary of War for use of the United States for military purposes," and as amended the committee recommend that the bill pass.

51st Congress, 1st Session. | SENATE. | Report No. 1600.

IN THE SENATE OF THE UNITED STATES.

August 20, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 4313.]

The Committee on Pensions, to whom was referred the bill (S. 4313) granting an increase of pension to Stephen D. Smith, have examined the same, and report:

Mr. Smith is on the pension-rolls at the rate of $50 per month under a special act approved February 28, 1887. Under the act of March 4, 1890, he is entitled to $72 per month, which the Pension Office declines to grant him, owing to the fact that the rate of pension, having been fixed by Congress, no increase can be allowed under the general laws. Affidavits are hereto attached showing Mr. Smith's right to this increase, and your committee, therefore, report the bill favorably, and recommend its passage.

Etna, Grafton County, N. H., *June* 25, 1890.

In relation to my service in the war of the rebellion I will submit the following statement:

I enlisted from Hanover, September 28, 1861, as a private in Company C, Seventh Regiment New Hampshire Volunteers, and while in Beaufort, S. C., in the summer of 1862, I contracted malaria and was sick in hospital about four weeks with chills and fever, from which I have never recovered, and as I grow older the disease and the results of it increase in severity.

On the 18th day of July, 1863, at the charge on Fort Wagner, Morris Island, South Carolina, I was wounded in my left thigh by a grape-shot. I was taken prisoner and was taken to Charleston, S. C., where my limb was amputated very near the hip-joint, and, either from bad amputation or want of care, perhaps both, the stump, what little there is of it, is in very bad shape, the bone protruding and the nerves very sensitive, and I suffer greatly from spasmodic or nervous twitching, which is very painful, with very sharp pain, as if a knife was being stuck into it, so that I often am obliged to take opiates in order to get any sleep or rest. I have to keep the opiates by me all of the time.

For a more complete statement of my physical condition I refer you to the inclosed affidavits of two of the physicans who have had the care of me for the last twenty-three years. I am now receiving a pension of $50 per month on pension certificate No. 33,823. My pension was increased from $45 to $50 per month by special act of Congress approved February 28, 1887. I am now fifty-seven years of age.

Stephen D. Smith.

I, Val. Wanahan, a practicing physician in Enfield, county of Grafton, and State of New Hampshire, do hereby certify that I have known and prescribed for Stephen D. Smith, who served in Company C, Seventh Regiment New Hampshire Volunteers during the late rebellion, for fully twenty-two years. He has suffered during that time from malaria badly, and the loss of a leg which is amputated so high up (near body) he can not wear artificial leg. The operation was so bad he could not if stump was longer. He is totally disabled for labor. I have no interest in his claim for a pension.

Val. Wanahan, *M. D.*

State of New Hampshire, *Grafton, ss:*

Subscribed and sworn to this 24th day of June, 1890, before me,

E. B. Huse,
Justice of the Peace.

STATE OF NEW HAMPSHIRE, *County of Grafton:*

I, Eliza J. Hoyt, age fifty-nine years, a resident of Etna, county of Grafton, and State of New Hampshire, do hereby certify that I live near neighbor to, and am well acquainted with, Stephen D. Smith and his family, and that I have worked for them a good deal during the last two years, and that much of the time Mr. Smith is under the care of a physician, and is obliged to have the care and attention of another person. He seems to suffer greatly from the amputation of his leg near his body, and from other diseases.

ELIZA J. HOYT.

STATE OF NEW HAMPSHIRE, *Grafton, ss:*

LEBANON, *June* 30, 1890.

Personally appeared the above-named Eliza J. Hoyt, and made oath to the above affidavit by her subscribed before me.

[SEAL.] CHARLES A. DOWNS,
Clerk of Lebanon Police Court, a court of record.

HANOVER, STATE OF NEW HAMPSHIRE, *County of Grafton:*

I, Elbert Hewitt, do hereby certify that I am a resident of Hanover, county of Grafton, and State of New Hampshire, and that I am forty-six years of age, and that I am well acquainted with and live about two miles from Stephen D. Smith's, who was a private in Company C, Seventh Regiment New Hampshire Volunteers, in the war of the late rebellion, and that I have been at his house often for the last three or four years, and that I have often found him confined to his bed and under the doctor's care, suffering from the stump where his left leg is amputated very near the hip-joint, and also from what the doctor called malarial trouble, and I know that much of the time he requires the aid and attendance of another person.

ELBERT HEWITT.

STATE OF NEW HAMPSHIRE, *Grafton, ss:*

LEBANON, N. H., *June* 30, 1890.

Personally appeared the above-named Elbert Hewitt and made oath to the above affidavit by him subscribed.

[SEAL.] CHARLES A. DOWNS,
Clerk of Lebanon Police Court, a court of record.

I hereby certify that I am a physician in regular practice the past sixteen years or more, and that during the past three or four years have been the family physician of Stephen D. Smith, of Etna, N. H., and further have no interest in his claim. During the time have often been called to visit him, and usually find him suffering greatly from neuralgia in different parts of the body. He suffers greatly at all times from an amputation at hip, or rather near the hip-joint, a very little of femur left the extremity barely covered, tender, and at times threatens to open, probably nerves bound down by the tender and adherent cicatricial tissue. His pulse usually slow; skin yellow; tongue heavily coated; sometimes nausea in the more acute attacks; but the pain intolerant without drugs.

During the attack will be cold cyanotic, again the opposite to touch and in appearance. This will be followed by a sweating stage coming with a periodicity of twenty-four to forty-eight hours interval, the appearance of rapid recovery. Yet this condition may be repeated and continue from two to four weeks. The past two years these more severe ill turns have occurred oftener and continue longer than in our first acquaintance. He sometimes passes through the subacute attack without a physician, as he, as well as his family, have become conversant with the common remedies for such cases.

At no time, or rather there is no day that passes without pain, as I understand both Mr. Smith and his family, and there can be no doubt but that he is afflicted with chronic malaria and many of its effects, especially intense neuralgia with loss of appetite and strength, from which the recovery is slow and only partial at that, besides the loss of his limb and the pain in the stub or place of amputation. His condition being such as requires a regular nurse or attendant a goodly share of the time, and as he advances in years more and more does he absolutely need the services of another to assist even when he is in his best condition.

DANIEL G. BROCKWAY.

STATE OF NEW HAMPSHIRE, *Grafton County, ss:*

Personally appeared before me on this 4th day of July, A. D. 1890, Daniel G. Brockway, and subscribed and made oath to the foregoing affidavit by him written, and I certify that I have no interest and am in no way related.

WILLIAM B. WEEKS,
Justice of the Peace.

(Certificate on file.)

O

51st Congress, 1st Session. | SENATE. | Report No. 1601.

IN THE SENATE OF THE UNITED STATES.

August 20, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 4220.]

The Committee on Pensions, to whom was referred the bill (S. 4220) granting a pension to Mrs. Mary E. Dickey, have examined the same and report:

James M. Dickey enlisted in the First Regiment New Hampshire Heavy Artillery Volunteers, serving from August, 1864, until June, 1865. He was married to the petitioner in 1856, and they lived together until 1866, when a decree of divorce was granted to Mrs. Dickey with the custody of the two children. The soldier remarried, but shortly afterwards separated himself from his second wife. The soldier's two children were cared for and educated by their mother, and the fact that the soldier intended to make provision for them in his will is quite clearly set forth in the accompanying evidence. This evidence and affidavits hereto attached seemed to make this case particularly fitting for special act.

Therefore your committee report the bill favorably, and recommend its passage without amendment.

PETITION OF MRS. MARY E. DICKEY, OF MANCHESTER, N. H., FOR SPECIAL PENSION, WITH AFFIDAVITS AND DOCUMENTARY EVIDENCE IN SUPPORT THEREOF.

To the Honorable Senate and House of Representatives of the United States of America, in Congress Assembled.

Respectfully represents your petitioner, Mary E. Dickey, of Manchester, in the County of Hillsborough and State of New Hampshire:

That she was lawfully married to James M. Dickey, December 23, 1856, and thereafterward lived with him until August 29, 1864, when he enlisted as a private in Company C, of the First Regiment of Heavy Artillery, New Hampshire Volunteers, and served until June 15, 1865, when he was mustered out, and returned to your petitioner when they resumed married relations, and so continued until about the year 1866, when they separated by reason of a divorce granted to your petitioner. That the said James M. Dickey died in said Manchester, November 23, 1881. That your petitioner had two sons by her said husband, whom she supported and educated without the aid of her said husband, and exhausted all her pecuniary means and resources in the family of said Dickey, and in the education of his children, and is now needful of aid from sources other than those at her command.

That after her said separation from her said husband he remarried, but it was an unhappy union, and resulted in their separation. But, being with him in the hour of death, the second wife, as your petitioner is informed, and has every reason to believe, fraudulently procured of the said James M. Dickey his mark to a document purporting to be his last will, and which, your petitioner has every reason to believe, was not his will at all, by which fraud the two sons of said Dickey, and of your

petitioner as well, were despoiled of their rights, and by reason thereof your petitioner, in her old age, is rendered practically homeless and dependent.

Wherefore she prays that a "special pension" may be granted to her by your honorable bodies, and that justice and equity may be done in the premises, and, as in duty bound, will ever pray.

MARY E. DICKEY.

In presence of—
D. L. PERKINS,
United States Commissioner.

I hereby certify that in the record book of marriages for the year 1856, I find the following marriage recorded:

James M. Dickey, of Manchester, N. H.
Mary E. Richards, of New Boston, N. H.

I hereby certify that the foregoing persons were joined in marriage by me in accordance with the laws of New Hampshire.

Attest: E. C. COGSWELL,
Clergyman.

A true copy.
Attest: GEORGE G. FOX,
Town Clerk of New Boston.

A true copy of the record.
Attest: EDMUND P. FOX,
Town Clerk.

STATE OF NEW HAMPSHIRE,
County of Hillsborough, City of Manchester.:

"Date of death, November twenty-third, eighteen hundred and eighty-one; name, James M. Dickey; age, 47 yrs., 2 mo., 20 days; residence, Manchester, N.H.; occupation, teamster; name of parents, David and Eliza; birthplace of parents, Manchester, N. H.; disease or cause of death, consumption; place of interment, Stowell Yard; informant, Pearson Wallace."

I certify that the above is a true copy of the record, with the exception of the date, which is expressed on the record in fair legible figures, as follows: "November 23, 1881."

NATHAN P. KIDDER,
City Clerk.

STATE OF NEW HAMPSHIRE, ADJUTANT-GENERAL'S OFFICE,
Concord, July 25, 1890.

I certify that the official records of this office show that James M. Dickey enlisted on the 29th day of August, 1864, and was mustered into the service of the United States as a private in Company C, First Regiment Heavy Artillery, New Hampshire Volunteers, on the 2d day of September, 1864, for the period of one year.

He is also officially reported as mustered out June 15, 1865.

A. D. AYLING,
Adjutant-General.

STATE OF NEW HAMPSHIRE, *Hillsborough, ss:*

To all people to whom these presents shall come:

Know ye, that at the supreme judicial court holden at in said county, on the first Tuesday of June, anno Domini, 1866:

In the matter of a libel for divorce Mary E. Dickey, of Manchester, in said county, libellant, against James M. Dickey libellee:

It was ordered, adjudged, and decreed by the court that the said Mary E. Dickey be divorced from the said James M. Dickey, that the bonds of matrimony between them be dissolved, and the marriage contract annulled.

It was further ordered, adjudged, and decreed by the court that the custody and education of the said Charles B. Dickey and Willie M. Dickey named in said libel, minor children of said libellant, be committed to her during the minority of said children.

It was further ordered, adjudged, and decreed by the court that said Mary E. Dickey be allowed as alimony all the household furniture mentioned in libellant's deposition (then in existence), and also the sum of $100 in money, and that execution for said sum of $100 issue against the body of said James M. Dickey.

In testimony hereof I have hereunto set my hand and affixed the seal of the supreme court at Nashua, in said county of Hillsborough, on the 6th day of August, anno Domini, 1890.

[SEAL.] THOS. D. LUCE,
Clerk.

(On the margin:) David L. Perkins.

STATE OF NEW HAMPSHIRE, *Hillsborough, ss.:*

I, John C. Bickford, clerk of the police court of the city of Manchester, hereby certify that said court is a court of record in and for said county and State, and that David L. Perkins, whose name is written on the margin hereof, is a justice of the peace and quorum for said State, duly commissioned and sworn according to law, and that all his official acts as such are entitled to full faith and credit, and that his signature to the same is genuine; that his commission is dated the 4th day of October, 1889, and will expire on the 4th day of October, 1894.

In witness whereof I have hereunto set my hand and affixed the seal of said court this 26th day of July A. D., 1890.

[SEAL.]

JOHN C. BICKFORD,
Clerk of Police Court, city of Manchester.

I, Alonzo H. Weston, of Manchester, in the county of Hillsborough and State of New Hampshire, on oath depose and say that I have known Mrs. Dickey, the applicant in this case, thirty-five years or more. I knew her to be the first wife of James M. Dickey, who served in the late war, and is now dead. They had two children, both boys, of whom Mrs. Dickey has had the care, custody, and education until they were old enough to care for themselves. About a year after the war Mr. and Mrs. Dickey separated. I have understood that Mrs. Dickey had a little something by way of money before she married Mr. Dickey, but that was all spent on the boys or in Mr. Dickey's family. She received nothing from Dickey's estate, and the boys were cut off with a dollar, and the property willed to another woman. Mrs. Dickey is a truthful, deserving woman, and is in need of whatever assistance she can get.

ALONZO H. WESTON.

MANCHESTER, *July* 24, 1890.

STATE OF NEW HAMPSHIRE, *Hillsborough, ss.:*

Sworn to and subscribed, and I certify the affiant to be credible and entitled to belief. Before me,

DAVID L. PERKINS,
Justice of the Peace.

I, Mrs. Isabella W. Peabody, of Tilton, in the county of Belknap and State of New Hampshire, on oath depose and say that I am seventy-four years of age and the aunt of Mrs. Mary E. Dickey, the applicant in this case. She was the wife of James M. Dickey, the soldier, now deceased. Mrs. Dickey has been a church member for many years past and I regard her as a good Christian woman. I often visited them when they were living together, and have often been with her since the separation. Mr. and Mrs. Dickey lived together after his return from the Army. After they separated Mrs. Dickey took care of the two children and has had the entire responsibility of their education and bringing up. The boys are very respectable and are everywhere liked and show evidence of good training. Mrs. Dickey has no means of her own and the two sons, both married, depend on their own efforts for a living. I remember of visiting Mrs. Dickey at one time and found her sick, depressed, and full of trouble. At that time I doubted whether she would get over it, but she did I am rejoiced to say. Her circumstances at that time were such that I felt constrained to render her pecuniary aid, and I did so.

ISABELLA W. PEABODY.

MANCHESTER, *July* 24, 1890.

STATE OF NEW HAMPSHIRE, *Hillsborough, ss.:*

Subscribed and sworn to before me, and I certify the affiant to be worthy of all credit. Before me,

DAVID L. PERKINS,
Justice of the Peace.

I, Daniel H. Dickey, of Manchester, in the county of Hillsborough and State of New Hampshire, on oath depose and say that I have been acquainted for more than thirty years with Mrs. Mary E. Dickey. She married my brother, James M. Dickey. He served in the New Hampshire Artillery Regiment in the late war of the rebellion. I was in the Tenth New Hampshire Volunteers, was discharged at Richmond, Va., and James had then been discharged and was at home before me. He and his wife resumed their marriage relations on his return, and so continued for about a year, when they separated. I believe she procured a divorce. They had two chil-

dren, both boys, and Mrs. Dickey, the applicant in this case, brought them up and educated them. I think she has made two good young men of them. They are both married and earning a support for their families. Mrs. Dickey is now without means. She is in every respect a good, worthy, and deserving woman. Her husband, James M., left some little property, perhaps worth $500 after all debts were paid, but the place was valued at from $2,000 to $2,500. James M. always told me that his two boys were to have all his property. That was his intention when he was in good health and of sound mind. He married a second wife from whom he parted. At the time of his last sickness this second wife came to him, but not at his request, and took care of him two or three weeks. They never lived happily together. While he was in a dying condition a lawyer was sent for, and a will was hastily drawn giving everything to her. My brother was unable to sign his name to it. He took hold of the pen and fell back in bed. They then got the pen in his hand again, and some one guided it while the cross was made. As he fell back he said "I can't sign it. It ain't right for me to sign it." Some of the neighbors were present and heard him make this remark. During his sickness he got my wife to write for his first wife, Mary E. Dickey, this applicant, to come and see him with their two boys, and this they did. The feeling among our family connections is that Mrs. Mary E. Dickey, my brother's first wife, has been unfairly dealt with, and if any one is entitled to the benefit of a pension she is the one so entitled, for she has borne the burden. She was a good wife and mother and is now dependent.

DANIEL H. DICKEY.

MANCHESTER, *July* 25, 1890.

STATE OF NEW HAMPSHIRE, *Hillsborough, ss.:*

Sworn to and subscribed, and I certify that the affiant is credible and entitled to belief. Before me

DAVID L. PERKINS,
Justice of the Peace.

NEW HAMPSHIRE, *Hillsborough, ss.:*

I, Willis M. Dickey, of Nashua, in said county, on oath depose and say that I am the son of James M. Dickey, late of Manchester, in said county, deceased. My father was a soldier in the late war in the Second Company of Heavy Artillery from this State. Mrs. Dickey, the applicant for pension in this case, is my mother. My father told me four or five weeks before he died that I and my brother were to have his property. He said as soon as he was able to ride that he was going to have a will made, so Charlie (my brother) and I could have what he left. My mother was separated from my father as long ago as I can remember, and soon after his return home after the close of the war. She has always had the care of us two boys; took care of us and educated us. Father did nothing for us to speak of. In his late years he seemed inclined to do something for us. My mother was divorced from him years ago, and subsequently he married another woman. But some time before his last sickness he separated from this second wife. He told me shortly before his death that this woman would never have a cent of his money. But when she found the condition he was in, and expecting him to die, she came to his house, or the house where he was then lying at the point of death, and insisted upon taking care of him. The day of his death, about two hours before he breathed his last, she sent for a lawyer to make his will. It was drawn up in another room, and when he was asked to sign they held him up to make his mark, and father said: "This is getting me into a devil of a scrape." They held him up and practically forced him to sign or make his mark to the will. Father could write a good name when in health. He signed with two little irregular marks of the pen. You could hardly call it a cross or anything else.

The will gave everything to this second wife except a dollar each to myself and brother, and we have never received that. Father didn't have much, not enough to fight over. I think this woman controlled him in his last hours when he was weak in mind and feeble of body, and got him to sign this will that in his health he never would have signed. Our mother took care of us two children from our infancy.

WILLIS M. DICKEY.

MANCHESTER, *July* 21, 1890.

NEW HAMPSHIRE, *Hillsborough, ss.:*

Sworn to and subscribed before me, and I certify that the affiant is credible and that I have no interest in the prosecution of this claim.

DAVID L. PERKINS,
Justice of the Peace.

STATE OF NEW HAMPSHIRE, *Hillsborough, ss.:*

I, Charles B. Dickey, of Dunbarton, N. H., on oath depose and say, that I am the son of James M. Dickey, and Mrs. Dickey who is the applicant in this case. My father was a soldier in the late war of the rebellion in the New Hampshire Heavy Artillery Regiment. He died in November, 1881. My mother procured a divorce from him some years ago, but I think they lived together after his return from the Army. Mother brought us two boys up and has had the care and education of us from childhood. Father did little if anything for our support and education. He had a little real estate at the time of his death, worth from $2,500 to $3,000, and this he willed to a woman who claimed to be his second wife. She had not lived with him for a long time before his death, but during the latter part of his last sickness she came to him, and as I understand it, persuaded him to make a will in her favor. The will was made on his death-bed. He was unable to read it, or to hold a pen, and they held him up in bed while he made his mark. He started to write his name but failed. He had often told my brother and myself that we were to have what property he left, and that this second wife should never have a cent. Before he made this will he sent for mother, my brother, and myself, to come and see him, and this we did. He said that day that he would like to go home with us, but he was unable to do so on account of his feeble condition. He was then living in his brother's family and was being well taken care of. We were all willing to do anything to contribute to his comfort. He had some property of his own and we had nothing. My mother has borne the burden of the family, and did everything for us two boys until we were old enough to do for ourselves. My mother's divorce was sometime after he returned from the war. His will was made under the influence of this woman who came to him in his last hours. I was willed $1, but I have never seen even that small pittance. He had no other children but my brother and self. Mother has no money of her own.

CHARLIE B. DICKEY,

MANCHESTER, *July* 23, 1890.

STATE OF NEW HAMPSHIRE, *Hillsborough, ss.*

Subscribed and sworn to, and I certify the affiant to be credible, and that I have no interest in the prosecution of this claim. Before me,

DAVID L. PERKINS.
Justice of the Peace.

I, Mary E. Dickey, of Manchester, in the county of Hillsborough and State of New Hampshire, on oath depose and say that I am fifty-six years of age, and that my maiden name was Mary E. Richards. I was married to James M. Dickey in New Boston, N. H., December 23, 1856, and we lived together until the breaking out of the war of the rebellion, when he enlisted in the First Regiment of Heavy Artillery, New Hampshire Volunteers. I had two sons by him, who are now both living and married. After the war my husband being discharged from the service, returned home, and we resumed marriageable relations for about a year. I was divorced from my said husband in the autumn of 1866, on the ground of intemperance and cruelty. Sometime after this he married another woman, with whom he lived for some years, but they finally separated, and I believe they never lived happily together. At the time of my marriage I had a few hundred dollars of my own, and a greater part of it was used in the family before we separated, and in the care and education of our two boys. At the present time I have nothing to depend on, and in a little time I will have absolutely nothing but my own individual strength, and no means of support but by manual labor. I am growing old, and feel that my dependence on labor gives me but a slight hold on life. I brought up the boys (his boys and mine) without any material assistance from him. It was always understood in the family that it was his intention to leave what property he had to the two boys, and if this had been done the boys would have been in a way to care for me. He sent for me and the boys to come to him before he died, and we did so. He told me it was his wish for the boys to have his property. "The boys will see that you are taken care of," was substantially the language he used. He said he was going to make a will in favor of the boys, but sickness came upon him and he neglected to do it. I feel that I am the one, if anybody, who should receive the benefits of his service in the army, for I was under a great burden of care and trouble during the best years of my life. During the time of his married life with the second woman she was away from him a great part of the time, and she came back to him in his last hours only to rob his children of their little patrimony. I have heard him say repeatedly that he regretted his past life and his ill-treatment of me. After I left him he told me that he believed if ever there was a Christian woman, I was the one. Within a year before he died he told me that I

had done better by the boys (meaning our two children) than he could have done. I hope to receive a little aid by way of a special pension act, and this will help me, in part, in my declining years.

MARY E. DICKEY.

MANCHESTER, N. H., *July* 26, 1890.

STATE OF NEW HAMPSHIRE, *Hillsborough, ss.:*

Subscribed and sworn to, and I certify the affiant to be credible and worthy of belief. Before me,

DAVID L. PERKINS,
Justice of the Peace.

51st Congress, 1st Session. | SENATE. | Report No. 1602.

IN THE SENATE OF THE UNITED STATES.

August 20, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10208.]

The Committee on Pensions, to whom was referred the bill (H. R. 10208) granting an increase of pension to Moses Graham, have examined the same and report:

The report of the House on the passage of this bill is concurred in, and is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. 10208) granting an increase of pension to Moses Graham, have considered the same and report as follows:

The claimant served a year as a private in Company A, First Arkansas Mounted Volunteers, Mexican war, and he is now receiving a pension of $8 per month on account of the same.

The testimony filed in support of the bill shows that he is about sixty-five years old and so much affected by piles and disease of the bowels as to be unable to earn a support by manual labor. He has an invalid daughter dependent upon him for a livelihood, and his only property is a little home.

In view of the claimant's poverty and physical condition, your committee are of the opinion that the increase of pension prayed for should be granted.

The bill is reported favorably, with a recommendation that it do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1603.

IN THE SENATE OF THE UNITED STATES.

August 20, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8890.]

The Committee on Pensions, to whom was referred the bill (H. R. 8890) granting an increase of pension to Lewis Solomon, have examined the same and report:

The report on which this bill was passed by the House is concurred in, and is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. 8890) increasing the pension of Lewis Solomon, have considered the same and beg leave to submit the following report:

The claimant was a private in Company A, First Indiana Volunteers, Mexican war, and served from June 17, 1846, to June 16, 1847. He also rendered almost four years of service during the war of the rebellion, and while serving in Company D, Fourth Iowa Volunteers, received a gunshot wound of the left arm, for which he received a pension of $4 per month, until the passage of the act of January 29, 1887, when he elected to take the $8 per month provided by that act for Mexican war service.

The bill provides for an increase of his pension to $72 per month, and in support thereof Dr. A. J. Weeks, of Correctionville, Iowa, states that the claimant is now totally blind and obliged to have constant attendance. He also states that the claimant ought to be allowed enough pension to pay a nurse for taking care of him. He (claimant) is now approaching seventy years of age and dependent upon his children for support. The children are all poor and live upon rented farms.

That the claimant is totally and permanently blind is also shown by the testimony of Dr. J. A. Thornton, of Correctionville, Iowa.

In view of the claimant's age, destitute condition, and blindness, your committee regard the case as a proper one for the favorable consideration of Congress, and the bill is therefore reported back with the recommendation that it do pass.

The bill is reported favorably with a recommendation that it do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1604.

IN THE SENATE OF THE UNITED STATES.

August 20, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5712.]

The Committee on Pensions, to whom was referred the bill (H. R. 5712) granting a pension to J. G. Fetherstone, have examined the same and report:

The report on which this bill was passed by the House is concurred in, and is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. 5712) granting a pension to Jesse G. Fetherstone, have considered the same, and report:

The claimant was a private in Captain Fletcher's company of the First Tennessee Mounted Volunteers, and served from June 18, 1836, to January 17, 1837, in the Creek and Seminole Indian war.

The claimant filed an application for pension June 9, 1883, alleging that while in the service and line of duty he received an injury of the right arm from a kick of a horse. This claim was rejected by the Pension Bureau June 30, 1885, upon the ground that there is no record of the alleged injury, and soldier's inability to prove it as the result of the service.

William E. Evans testifies he was a comrade of the claimant and saw him soon after receiving the alleged injury, and understood at the time that it was incurred as stated by the applicant.

Other evidence, tending to show that the applicant has been a sufferer from an injury of the shoulder continuously since his said service, was filed in the Pension Bureau.

It is shown that the claimant is now about seventy-five years old, very poor, and too feeble to earn anything to aid in his support.

Your committee are of the opinion that the claim is a meritorious one, and the bill is therefore reported back with the recommendation that it do pass.

The bill is reported favorably with a recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1605.

IN THE SENATE OF THE UNITED STATES.

August 20, 1890.—Ordered to be printed.

Mr. Moody, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 7914.]

The Committee on Pensions, to whom was referred the bill (H. R. 7914) granting a pension to Jay Marvin, have examined the same and submit the following report:

That upon the examination of the facts stated in the House report we are of the opinion that this is a measure of meritorious relief, and do therefore recommend the passage of the bill, making the House report a part hereof and adopting the same.

[House report No. 926, Fifty-first Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7914) granting a pension to Jay Marvin, submit the following report:

Claimant enlisted December 17, 1861, and was discharged March 19, 1862. Filed claim for pension February 28, 1885, alleging as basis of claim measles and rheumatism, leaving him without use of lower limbs.

Claim was rejected April 10, 1886, for reason that there is no satisfactory evidence that claimant contracted any disability in the United States service. Claimant has no hospital record; testifies that he can not give the names of any of his officers, as they paid no attention to his wants; that about the 1st of January, 1862, he was taken sick of measles and was removed to St. Mary's Hospital, Detroit, Mich., and that he remained in hospital two or three weeks; that after he returned to camp he caught cold and had an attack of rheumatism, which continued to date of discharge, March 19, 1862, but that he was not treated by regimental surgeons, but was excused from duty till discharged. Claimant says he can not give name of first physician who treated him after discharge.

Francis W. Wornen, orderly sergeant of claimant's company, testifies that Marvin was taken sick of measles and removed to St. Mary's Hospital; that after his return he (Marvin) took cold and had an attack of rheumatism which continued till his discharge, and that he did no duty after taken sick. W. M. Ryan, a comrade and bunk mate, testifies substantially to the same facts, as does also Mason L. Alexander. Sidney W. Alexander testifies to personal acquaintance with claimant from date of discharge till 1864, and that claimant was unable to work and was confined to his house with rheumatism. There is much similar testimony and sufficient as to present condition to show that claimant is now entirely helpless and has to be moved about in a chair.

In view of all the testimony your committee are of opinion that the case is a very just one and that claimant is entitled to the relief asked, and accordingly recommend the passage of the bill.

O

51st Congress, 1st Session. | SENATE. | Report No. 1606.

IN THE SENATE OF THE UNITED STATES.

August 21, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6084.]

The Committee on Pensions, to whom was referred the bill (H. R. 6084) for the relief of Thomas Nelson, have examined the same and report:

The report on which this bill was passed by the House is concurred in, and is appended hereto The bill is reported favorably with a recommendation that it do pass.

[House Report No. 2531, Fifty-first Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6084) granting an increase of pension to Thomas Nelson, submit the following report:

Thomas Nelson enlisted in the Third Wisconsin Volunteer Infantry as a private. The records of the War Department show that he received three gunshot wounds, while in action at Dallas, Ga., on the 25th day of May, 1864, two in the left thigh and one in the left leg, below the knee. One of the bullets entered the thigh 6 inches above the knee, cut the cords of the leg and imbedded itself in the thigh bone.

The testimony in the case proves that at the time he was with his company, and in the front rank, charging a Confederate battery, and that the soldier was within 4 or 5 rods of the battery when shot down.

The records in this case at the Pension Bureau show further, that when the soldier had partially recovered from these wounds, but while he was still very lame in consequence thereof, he was, on February 8, 1865, promoted and commissioned second lieutenant of the Forty-fifth Wisconsin Volunteer Infantry; that six days later, while on recruiting service, and while descending a flight of stairs, and because of his great lameness and without fault upon his part, he received a severe fall, dislocating his left shoulder and badly fracturing the neck of the left humerus and also fracturing the middle third of the left humerus, or upper and principal bone of the arm. Respecting the gunshot wounds and this fracture, the records of the Adjutant-General's office contain the following from E. J. Dahm, assistant-surgeon of the Forty-fifth Regiment Wisconsin Volunteers, dated June 15, 1865:

He is unfit for service on account of lameness caused by three wounds, said to have been received in the battle at Dallas, Ga., May 25, 1864, while a private in Company E, Third Regiment Wisconsin Volunteers. One wound is through the fleshy part of right leg, the two others through the left thigh, one of the musket-balls yet remaining in contact with or imbedded in the bone. He has also paralysis of the deltoid muscle of the left arm, caused by a fracture of the neck of the humerus, according to a certificate from E. Kramer, surgeon Forty-fifth Wisconsin Volunteer Infantry, the accident occurring in the city of Madison, Wis., February 14, 1865, while in the discharge of his duty as an officer.

E. J. Dahm,
Assistant Surgeon, Forty-fifth Regiment Wisconsin Volunteers, in charge.

The medical testimony in the case, in an unbroken line, clearly proves not *only an impaired* and crippled condition of the arm resulting from

said injury, but an imperfect reduction of the dislocation and such an imperfect union of the fracture as to cause a progressive disease of the bone and a wasting of the muscles from that time forward.

In 1875 he was granted a pension for gunshot wound and injury to left shoulder. This was increased from time to time until, with the several general acts increasing pensions of like grade, including the act of August 4, 1886, Lieutenant Nelson was pensioned at $36 per month.

The condition of his arm as early as 1875 was such as to occasion him the greatest suffering. The disease of the bone and muscles had gradually developed. In 1876 the examining surgeon of the Pension Bureau reported that the fracture "produces partial anchylosis of the joint, and prevents him from raising his arm up from the side on a line with his body."

In 1877 the examining surgeon says:

There is atrophy of 2 inches of the muscles of the arm, and in consequence of numbness of the fingers and atrophy of the muscles, he has but little use of the left arm for manual labor.

In 1881 the board of examining surgeons say:

We find much crepitus in the shoulder-joint. He can not raise the arm from the shoulder. The arm is quite helpless. Has also suffered a fracture of the left fore-arm, probably, partially at least, in consequence of the helplessness of the arm.

The fractures of the arm between the elbow and wrist were due to his being thrown from a sleigh and falling upon the weakened and diseased arm, producing this additional injury, an accident which would not have befallen him, except for the disabilities incurred in service, for which he was pensioned, the crippled condition of his legs, due to wounds, and the diseased and wasted condition of his arm.

In 1884 the board of examining surgeons say of the original injury to the arm at the shoulder:

We find a fracture of the neck of left humerus with partial dislocation inwards of the head of the bone. There is pain on moving the joint, with decided crepitus. The arm is quite useless and can be raised but a short distance from the side. He has, in consequence of loss of control of the arm, suffered several fractures of the fore-arm, a fracture of the ulna in upper third with bad results, bone uniting at an angle and overlapping, also fracture of radius in lower third and no osseous union.

In July, 1887, the board of examining surgeons say:

Arm hangs helplessly from the shoulder. Fore-arm and hand also helpless.

The testimony of his neighbors, of record in the case, is in entire harmony with this medical evidence and establishes beyond question the fact that prior to receiving the fracture of the left fore-arm the old fracture and dislocation of the left humerus and shoulder and the resulting disease of bone and atrophy of muscles had so progressed that as early as 1879, and even before, Lieutenant Nelson had been wholly unable to perform any manual labor of any description and required constant assistance in the ordinary care of his own person.

As the disease of the arm developed, it was attended by constant and increasing pain, extending from the shoulder to the hand.

Several physicians were applied to for relief, and their testimony is a part of the record in this case. They describe the arm as "discolored," as "entirely useless," and the patient's condition as "much worse than as if the arm were gone." Dr. W. W. Gill, a practicing surgeon and physician of Madison, Wis., examined the arm several times, and as early as 1883 advised amputation. He testifies that—

The indications were that the bone was becoming necrosed. The pain at times was very severe, extending from the shoulder to the fingers. This pain continued growing worse from time to time.

In December, 1886, Lieutenant Nelson was compelled to seek some relief from this increasing disability and suffering, and for that purpose he visited Hahnemann Medical College and Hospital, Chicago. Dr. Geo. A. Hall, professor of the principles and practices of surgery and clinical surgery of that institution, took charge of the case. An examination was made, and an operation was performed by Dr. Hall, December 20, 1886. Dr. Hall testifies that he found the patient had "sustained a fracture of cervical neck of left humerus, also a fracture of middle third of same, and subsequently fracture of both bones below elbow of left arm, upper one third; following this a fracture of radius two inches and-a-half above radio-carpal articulation, and the ulna one inch above articulation."

The operation and effort to save the arm proved unavailing, and upon the 10th day of October, 1887, Dr. Hall amputated it.

The claimant applied for an increase of his pension to $45 per month, and the medical referee at the Pension Bureau declined to accept the amputation of the arm as resulting from the original dislocation of shoulder and double fracture of the left humerus, and reduced the rate of his pension to $24 per month. The medical referee says in rendering his decision in the case, that—

In view of the contradictory statements of Dr. Hall and the statements of our examining surgeons, that there was no necrosis or ulceration in the humerus and upper arm, we must decline to accept his latter statement as sufficient to show that the amputation of the humerus was made necessary by the injury of the left shoulder for which the soldier was pensioned.

As Dr. Hall made two affidavits in relation to the amputation, and as certain alleged "contradictory statements" in these two affidavits are assigned as reasons for the opinion of the medical referee, the affidavits are herewith submitted. In the first one, dated December 19, 1887, Dr. Hall testifies:

That the condition of the arm previous to amputation was as follows: There was non-union of both bones of the fore-arm for which operation had been made December 20, 1886, and all efforts made for their restoration, but the result was failure. The arm continued useless and helpless, and from the diseased condition of the bones of the fore-arm it was agreed and I believe that further attempt to reduce the integrity of the fore-arm would have been of no avail; that on the 10th day of October, 1887, this affiant amputated said arm at a point a little above the middle of the humerus. The bone at this point was diseased. It having undergone osteomyelites made the shell very thin and the bone sensitive. The condition of the bone at the time of amputation, the result of former injuries, and also that said amputation was so near the shoulder joint that it will be impossible for said claimant to use an artificial arm.

In the second affidavit, dated February 7, 1890, he testifies as follows:

On the tenth day of October, 1887, I amputated the left arm of Thomas Nelson, the claimant, very close to the shoulder. In my opinion said amputation was very necessary for the reason that the bone was splintered, necrosed, and ulcerated. I believe that said operation was necessary in order to save the life of the patient. The condition of the bone was the result of a fracture of humerus at middle third while in the Army and Federal service. He had lost entire use of left arm and the continued pain, loss of sleep, and impairment of health made the amputation a necessity to save life.

It is true that in the first affidavit Dr. Hall describes the condition of the fractures of the fore-arm as well as the condition of the fractures of the humerus. It is true also that when the Pension Bureau, not satisfied as to the condition of the original injury to shoulder and fracture of humerus at the time of the amputation, called upon the claimant to furnish more evidence on that point, and he applied to Dr. Hall to explain more fully and exactly the condition of the old injury as he found it on amputation—it is true that Dr. Hall, responding to this

call, in the second affidavit did describe it more fully and particularly. Then, because the second affidavit disagreed with the first, in that it was more explicit upon the points upon which more explicitness was demanded, it is declared to be in contradiction with the former affidavit, and on that account it is rejected. Dr. Hall is a practicing physician of fifty-five years of age, at the head of the surgical department of Hahnemann Medical College and Hospital. He is a gentleman whose eminence in his profession ought to insure to his opinions great weight and his statements under oath to belief. Your committee find no contradiction in his testimony warranting the rejection of any part of it.

The other special reason assigned by the medical referee in the summation of his opinion before quoted is the alleged "statements of our examining surgeons that there was no necrosis or ulceration in the humerus and upper arm."

Your committee have carefully searched the record and have reviewed every statement made by the examining surgeons in this case from first to last and assert that in no instance, either directly or indirectly, do the examining surgeons state that there was "no necrosis or ulceration in the upper humerus and upper arm." They express no opinion whatever upon this particular phase of the disease. But Dr. W.W. Gill testified after repeated examinations of the arm, nearly four years prior to amputation, that in his opinion there was necrosis of the bone.

The bone was not laid bare to view until Dr. Hall operated on and amputated the arm. Even if there was disagreement—and there is not—the testimony of Dr. Hall as to what he saw must outweigh all mere opinions formed by others from previous external examination.

Finally it is very pertinent to inquire if the arm was amputated because of a fracture between the elbow and wrist, why was it amputated close to the shoulder? The danger of the operation is increased with the near approach to the body.

No man willingly parts with more of the precious limb, when the ordeal of amputation must be endured, than surgical science demands. Lieutenant Nelson was reluctant to lose his arm, though it had been worse than useless, almost from the time of his discharge. When finally the risk of retaining it longer became too great no more was taken off than was deemed necessary to save his life. If it was cut off close to the body, it was solely because the disease of the bone which required amputation was close to the shoulder, or at the point of original injury.

In brief the facts of this case are:

That Thomas Nelson, a gallant private soldier, in the front rank of his company, charging a Confederate battery, fell within a few rods of the battery, shot three times through both legs.

That, while yet lame and scarcely able to walk, he was promoted lieutenant of the Forty-fifth Wisconsin Infantry, assigned to recruiting service, and while in the line of duty received a severe fall, dislocating his left shoulder and breaking the bone of his left arm twice near the shoulder.

That the arm was crippled and the bone diseased at the points of the original injury from that time, and continuously grew worse from year to year until the arm became "helpless from the shoulder down."

That because of lameness in leg from wounds and utter helplessness of the arm from said injury, he suffered a fracture of the injured arm between the elbow and wrist subsequently.

That the arm finally was amputated because its condition, from the

shoulder down, was such as to render amputation necessary to save the soldier's life.

That it was found necessary, because of the necrosed, ulcerated, splintered, and diseased condition of the bone of the upper arm, due to the injury of said arm in the service, to amputate it so close to the shoulder as to render it impossible for the claimant to wear an artificial arm.

Therefore, because the proofs and records in this case clearly sustain the foregoing, your committee unanimously recommend the passage of the bill allowing him a pension at the regular rate for loss of arm at the shoulder joint, instead of the pension he is now receiving.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1607.

IN THE SENATE OF THE UNITED STATES.

AUGUST 21, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1568.]

The Committee on Pensions, to whom was referred the bill (H. R. 1568) granting a pension to Delphina P. Walker, have examined the same, and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1568) granting a pension to Mrs. Delphina P. Walker, submit the following report:

The proposed beneficiary is the step-mother of Melvin F. Walker, who died in hospital at Hilton Head, S. C., January 24, 1862, of disease contracted while serving as a private of Company B, Ninth Regiment Maine Volunteers. He was nineteen years of age at the time of his death, left neither wife or child surviving him, and there is no one drawing pension on account of his death.

Mrs. Walker applied for pension, but she not being the natural mother of the soldier, the application had to be rejected.

It appears from the evidence on file that the soldier was only three years of age when she became his step-mother. She cared for him tenderly, and he knew her only as a mother, and spoke of her as such in his dying moments.

Mrs. Walker now well advanced in years, is almost entirely dependent upon her own efforts for a support.

Your committee are clearly of the opinion that the relief asked for should be granted, and therefore report favorably on the accompanying bill and ask that it do pass.

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1608.

IN THE SENATE OF THE UNITED STATES.

AUGUST 20, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9138.]

The Committee on Pensions, to whom was referred the bill (H. R. 9138) granting a pension to Elizabeth Gushwa, mother of William Gushwa, late a private of Company F, Forty-eighth Regiment Indiana Volunteer Infantry, have examined the same and report:

That from the facts stated in the House report, which is hereto attached and approved, we believe this to be a meritorious measure and do recommend its passage.

[House Report No. 2390, Fifty-first Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9138) granting a pension to Elizabeth Gushwa, have had the same under consideration and beg to submit the following report:

The facts in the case are as follows:

The claimant is the mother of William Gushwa, a private of Company F, Forty-eighth Regiment Indiana Volunteer Infantry, who died a short time after his discharge of disability contracted in the service; that she was dependent upon him for her support; that she is the mother of four other sons who died while in the service in the war of the rebellion; that she has no means, and for the last twenty years has been wholly unable to earn her own living by her own labor, and that during most of that time she has been an inmate of the poor-house of La Grange County, Ind.

She never filed a claim for pension for the reason that she had no means to get the evidence, which is scattered and far away, and she had no friends to assist her. She is now eighty-four years old, and being cared for by those who are under no legal obligations to do so, and this effort to get her a pension is made by those who are under no legal or equitable obligation to support her, but simply for the reason that they know that she has a good case, and could prove up as good a case as was ever presented to the Department if it was not for her extreme age and poverty. From these facts, clearly shown by the evidence, your committee believe she is entitled to a pension, and therefore respectfully recommend the passage of the bill.

O

51st Congress, 1st Session. | SENATE. | Report No. 1600.

IN THE SENATE OF THE UNITED STATES.

August 21, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10951.]

The Committee on Pensions, to whom was referred the bill (H. R. 10951) granting a pension to Lucinda Rawlingson, widow of Thomas J. Lindsay, a soldier of the war of 1832, have examined the same, and report:

That from the facts stated in the House report, which is hereto attached and approved, we believe this to be a meritorious measure and do recommend its passage.

[House Report No. 2643, Fifty-first Congress, first session.]

The Committee on Pensions, to whom was referred the bill (H. R. 10951) granting a pension to Lucinda Rawlingson, have considered the same, and report:

The claimant's late husband, Thomas J. Lindsay, was a private in Capt. John McCann's company, Spy Battalion, Illinois Mounted Volunteers, Black Hawk war, and served from May 12, 1832, to August 13, 1832.

Thomas J. Lindsay and the claimant were married in 1829. He died in 1840, and on the 5th of December, 1866, she remarried to one William Rawlingson. Rawlingson died a few weeks after their marriage and the claimant has remained a widow ever since.

Mrs. Rawlingson is now and for several years has been in an almost helpless condition and not able to do any work whatever, and she is being taken care of and supported by her daughter-in-law. She has no property and is seventy-nine years old. Her residence and post-office address is Carmi, Ill.

In view of claimant's great age and dependent condition, your committee are of the opinion that the relief prayed for should be granted.

The passage of the bill is recommended.

O

51st Congress, 1st Session. | SENATE. | Report No. 1610.

IN THE SENATE OF THE UNITED STATES.

August 21, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6853.]

The Committee on Pensions, to whom was referred the bill (H. R. 6853) granting a pension to Allen Morris, late a soldier in the war with Mexico, have examined the same and report:

That from the facts stated in the House report, which is hereto attached and made a part hereof, we believe the same to have merits and do recommend its passage.

[House Report No. 1859, Fifty-first Congress, first session.]

The Committee on Pensions, to whom was referred the bill (H. R. 6853) increasing the pension of Allen Morris, have considered the same and report:

The claimant was a private in Company E, Battalion of Missouri Volunteers, and served from December 29, 1847, to October 9, 1848, in the war with Mexico.

He is now a pensioner at the rate of $8 per month on account of said service. This pension was allowed him under the disability provision of the act of January 29, 1887, upon the proof of severe disability from rheumatism and rupture.

The claimant declares that the rupture from which he now suffers had its origin remotely in the service, but owing to his inability to find comrades who know the facts he can not prove it. The evidence submitted in support of the bill shows that the only property owned by him is an old mule and horse of about $100 in value, and that he has debts aggregating $300. It is further shown that the claimant is a sober, upright man, and was always industrious until he became too much disabled to work. He is now about fifty-eight years old.

In view of the facts stated herein your committee report the bill back with the recommendation that it do pass.

Amend by striking out the word "thirty," in line 6, and substituting in lieu thereof the word "twenty," it being the purpose of the committee to recommend a pension at the rate of $20 per month.

O

51st Congress, 1st Session. | SENATE. | Report No. 1611.

IN THE SENATE OF THE UNITED STATES.

August 21, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10334.]

The Committee on Pensions, to whom was referred the bill (H. R. 10334) granting a pension to Wiatt Parish, late a soldier in the Black Hawk war, have examined the same and report:

That from the facts stated in the House report, which is hereto attached and approved, we believe this to be a meritorious measure and do recommend its passage.

[House Report No. 2519, Fifty-first Congress, first session.]

The Committee on Pensions, to whom was referred the bill (H. R. 10334) granting a pension to Wiatt Parish, have had the same under consideration, and respectfully report as follows:

The claimant served from June 17, 1832, to August 16, 1832, in Captain Bowman's company of Illinois Volunteers in the Black Hawk war.

In a declaration for pension filed at the Pension Bureau October 9, 1874, he declares that while in said service and line of duty he contracted measles, which resulted in pain in the back, knees, lungs, and eyes. He also declares that he contracted a hydrocele of the right side from riding while in said service.

That the claimant contracted measles while serving in Captain Bowman's company is established by the testimony of several of his comrades. It is also shown that he has been a sufferer for many years from rheumatism, disease of the testicles, and an affection of the throat, but the claim was rejected by the Pension Bureau on the ground that the testimony failed to establish the allegation that said disabilities were contracted in the service as the result of measles and horseback riding.

The claimant is now about seventy-six years old, badly disabled, and very poor. He is obliged to depend upon relatives for support.

In view of the facts stated your committee recommend the passage of the bill with the following amendment: Strike out the word "thirty," in line 7, and substitute in lieu thereof the word "twenty."

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1612.

IN THE SENATE OF THE UNITED STATES.

AUGUST 21, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10234.]

The Committee on Pensions, to whom was referred the bill (H. R. 10234) granting a pension to Rebecca Young, widow of James Herald, late of the U. S. Navy, have examined the same and report:

That from the facts stated in the House report upon said bill, which is herewith returned and approved, we believe that this is a meritorious measure and do recommend its passage.

[House Report No. 2349, Fifty-first Congress, first session.]

The Committee on Invalid Pensions, having in charge the bill (H. R. 10234) granting a pension to Rebecca Young, surviving widow of James Herald, late of U. S. Navy, beg to submit the following report of the facts in said case:

We find that the said Rebecca was married to the said James Herald August 26, 1855, he at that time being twenty-two years of age; that they were poor and without means, and that the said Herald had been in the U. S. Navy for some five years previous to this said marriage; that he served faithfully during two terms of enlistment.

In 1861 he entered the service and remained there to the date of his death, July 10, 1869; that during his last term of service he became sick with chills and fever from exposure on the Mississippi River, which lasted for several years and finally caused his death; that during his second enlistment his widow remained at Washington, D. C., taking care of her four children, he being in poor health and able to assist her but little, if any, and she many times lending her personal assistance to the relief of the wounded and sick with which the city was crowded during the war; that she was granted a pension as his widow (certificate No. ——) at the rate of $10 per month until December 13, 1875, when she married one William W. Young, with whom she lived until his death, March 31, 1885; that her second marriage was an unfortunate one for her, inasmuch as he was poor and without means, having also been a soldier, but dying from causes other than those due to his military service. That since the death of said Young she has been acting as nurse for the sick and for children as she could find such employment, and being many times, and of late years the greater part of the time, unable to do anything, being herself afflicted with disease of respiratory organs and about sixty years of age, and no means of support and none of her children able to assist her.

In conclusion we report that her life has been one of unusual toil and hardship, being the widow of two soldiers, having lived an exemplary Christian life, being now almost destitute, totally unfit for labor, and about sixty years of age and severely afflicted with disease.

For this reason we recommend that the bill do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1613.

IN THE SENATE OF THE UNITED STATES.

August 21, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5736.]

The Committee on Pensions, to whom was referred the bill (H. R. 5736) granting a pension to John L. Lindel, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5736) granting a pension to John L. Lindel, submit the following report:

That claimant enlisted February 22, 1864, and was discharged September 3, 1864, because of amputation of the left thigh, necessitated by injury received in a railroad accident which occurred while en route to Pottsville, Pa. The soldier had leave of absence from Camp Curtin, Harrisburg, Pa., and in the accident, without his own fault, was thrown under the cars. These facts are shown by the records of his claim, which was rejected because not in line of duty at the time of accident.

Your committee think it a proper case in which to interpose by special act and recommend the passage of the bill.

51st Congress, 1st Session. | SENATE. | Report No. 1614.

IN THE SENATE OF THE UNITED STATES.

August 21, 1890.—Ordered to be printed.

Mr Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4688.]

The Committee on Pensions, to whom was referred the bill (H. R. 4688) granting a pension to Thomas James, have examined the same, and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4688) granting a pension to Rev. Thomas James, submit the following report:

The proposed beneficiary was, at the breaking out of the late war, in charge of the colored church in Rochester, N. Y.

In 1862 he received an appointment from the American Missionary Society to labor among the colored people of the South, who were about to be released from human bondage by the exigency of the war and thrown upon their own resources. He proceeded to Louisville, Ky., where he entered upon his labors. While there he attracted the attention of the military authorities by his zeal in behalf of that race, and was, by order of General Burbage, in command at that point, placed in charge of the freed and refugee blacks then supported by the Government in a large camp near aforesaid city. In addition to these duties he was appointed a member of the military police force of Louisville, in which capacity he was required to pay particular attention to the protection of the colored people who, as it appears in evidence, were, upon the most trifling charges, arrested by the civil authorities, thrown in jail or slave pens, and there held until arrangements were completed to sell them as substitutes to the city authorities who had assumed the filling of a quota under a then impending draft.

While thus a member of the military police force of Louisville, Ky., he was sent by General John M. Palmer, who succeeded General Burbage in command at that place, to the shop of a blacksmith, who was charged with disloyalty, with an order requiring the latter to report at his headquarters. As James entered the shop he was attacked by the man with an iron bar and struck on the neck and shoulders, by reason of which he was totally disabled for a long time, and in consequence whereof his right hand became paralyzed and is almost wholly useless to this day.

The application made at the Pension Office had to be rejected under the law, because the claimant was not an enlisted man in the Army. The orders placing James on the duties heretofore referred to, as well as the instructions under which he acted, are before your committee, as well as letters from General Palmer, in which he refers in the highest terms to the valuable services rendered by the former to the military authorities and the colored people of Kentucky.

James is now eighty-six years of age, is not only entirely unable to earn a support by reason of the injuries received in service and now almost total blindness, but also dependent upon the charity of his friends.

While he was not an enlisted man the services rendered by him were of a military character and necessary in connection with the military operations of the Government.

Your committee therefore report favorably on the accompanying bill and ask that it do pass, amended, however, by striking out all after the word "month," in line 9.

O

51st Congress, 1st Session. | SENATE. | Report No. 1615.

IN THE SENATE OF THE UNITED STATES.

August 21, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10083.]

The Committee on Pensions, to whom was referred the bill (H. R. 10083) granting an increase of pension to George Murry, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended with the following amendment:

Strike out all after the word "to," in line 4, and insert the following: "increase the pension of George Murry, late a private in Company G, Eighth Regiment Michigan Cavalry, and pay him at the rate of thirty dollars per month from and after the passage of this act."

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10083) granting additional pension to George Murry, submit the following report:

George Murry enlisted in Company G, Eighth Michigan Cavalry, on December 15, 1862, and was honorably discharged July 20, 1865.

During this period he suffered a four months' imprisonment in Andersonville, where he contracted scurvy, for which he is pensioned at the rate of $6 a month. The soldier has applied for pension for heart disease and deafness, but his claim is rejected on the ground that origin in service is not established. The regimental surgeon who treated him can not be found, but N. S. Boynton, captain of Company L, Eighth Michigan Cavalry, testifies that he was intimately acquainted with George Murry, and that he complained of deafness and heart disease while yet in the service, brought on by hardships incident to the service, and that he was badly disabled on his return from prison.

Neighbors testify that Mr. Murry immediately after returning from service complained to them of both deafness and heart disease, and medical testimony shows treatment for heart disease at this time. Soldier's prior soundness is shown.

Dr. J. G. Totten, who has treated him since 1875, says he has often thought his visits would be of little avail, as soldier was "so bad he might drop dead at any moment."

Board of surgeons report a distressing condition from scurvy, digestion impaired on account of inability to masticate food, and in report of November 30, 1881, they say that they believe irregular heart action is sympathetic; left auditory nerve shows points of ulceration, and claimant can not hear a watch tick even at contact with left ear.

Special Examiner Charles H. Thomas in his report of August 20, 1888, says:

"I think it will be impossible to show origin in service, as pensioner says he did not complain to comrades. I am of the opinion that disease of the heart is a sequence of scurvy and prison life, and recommend its admission. I believe there is merit in the claim for deafness, but that it will be very difficult to prove. Deafness may be, and probably is, due to scurvy and life at Andersonville."

Special Examiner Hausted reports a belief that claim for heart disease has merit.

Special Examiner Pettiman does not think origin in service proven, but this opinion is based simply upon the facts upon which the other examiners recommend admission of claim.

Believing from the evidence that this claim is just and that Congress in granting the relief sought will effect but a simple act of justice, we return the bill with the recommendation that it do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1616.

IN THE SENATE OF THE UNITED STATES

August 21, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1284.]

The Committee on Pensions, to whom was referred the bill granting a pension to Theodora M. Piatt, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

[House Report No. 1568, Fifty-first Congress, first session.]

This or a similar bill was favorably reported in the Fiftieth Congress, and your committee adopt the same report, as follows:

Benjamin M. Piatt, husband of Theodora M. Piatt, enlisted in the late war in 1861 as a volunteer, and was appointed assistant adjutant-general with rank of captain in the volunteer army on the 16th of May, 1862; promoted brevet major and major March 2, 1865, and honorably mustered out November 22, 1865. Entered the regular Army as second lieutenant in the Forty-fourth United States Infantry Veteran Reserve Corps, because not able to accept appointment of first lieutenant in the Twenty-fifth Regiment (active); promoted July 2, 1867, first lieutenant by brevet "for gallant and meritorious sevices in the battle of Chancellorsville," and to captain by brevet "for gallant and meritorious services in the battle of Gettysburgh." Major Piatt seems to have been a great sufferer from a lame leg and general ill-health, and was a great sufferer after he was retired, and finally his mind gave way and in a moment of mental aberration he committed suicide on the 17th day of April, 1885, leaving a large and helpless family.

In his application for retirement we glean the following facts in regard to his disability. He says:

I have had from my birth a slight lameness in my leg and foot. This lameness never materially disqualified me for active exercise of almost every sort, and until after a long, severe, and extremely debilitating sickness in 1862, my ankle joint never had the weakness it now has. Upon entering the volunteer army I was able to walk 10 or 15 miles a day without the use or necessity of a cane or any sort of assistance, and I believe I could do the same to-day but for the effects of what I have suffered in the service. I walked at fourteen months old, and was employed in my father's business (farming) as long as I remained at home.

In the month of July, 1862, at Winchester, Va., I was prostrated by a violent attack of fever, accompanied by severe rheumatism, and was ill from that time until the latter part of August, when, believing myself able to return to duty, and being very

anxious to join my brigade commander at Bull Run, I left Alexandria, Va., with a regiment of infantry and a battery of artillery that were under orders to report to General A. S. Piatt, then commanding a brigade in General Sturgis's division. I went with these troops, I think, on the 1st of September, notwithstanding my great weakness and debility, as far as Fairfax Court House, where we met the Army. We remained near Fairfax that night, and I was for many hours exposed to terribe storm of rain that fell that night. The next morning I was very ill, but did not stop until I found General Piatt and reported to him the troops I was conducting. We then went to Fort Corcoran, or near it, and from there, after several days of severe illness and pain, I was sent away on sick leave on account of the relapse caused by the exposure to which I had been subjected in my weak condition.

I was absent nearly a month and returned again to duty, but was still weak, and suffered much pain in my ankle and leg, and, in fact, in all of my limbs and body, but being a mounted officer I was able to perform the usual routine of duty pertaining to my position.

At the battle of Gettysburgh my horse was shot under me, and I was considerably bruised by the fall, besides which I received several other slight injuries during the battle that I believe still affect me in the use of my foot. I remained on duty on the field, except as herein mentioned, through 1862, 1863, up to about the 1st of May, 1864, taking part during my field service in ten battles, of which the following is a list: Manassas Gap, Fredericksburgh, Chancellorsville, Beverly Ford, Gettysburgh, Wapping Heights, Auburn, Kelly's Ford, Locust Grove, and Mine Run.

In the spring of 1864 I was relieved from duty in the Army of the Potomac and assigned to duty on staff of General Rosecrans, Department of Missouri. Having disposed of my horses before leaving the field, I had a good deal of walking to do after going to Saint Louis, and instead of being able to walk, as I had done before the war, I found the tendons of my leg and foot much contracted, and that I could not walk any considerable distance without both pain and fatigue, almost the entire weight being thrown forward and to one side, upon the ball of the little toe, causing the foot to give way under me at every step, just as it does now, or nearly so. The contracting of the tendons and muscles is, I think, at least an inch. The leg has diminished considerably in circumference, and I can scarcely estimate the loss of strength or power; certainly it has not one-fourth the action and strength it had when I entered the volunteer Army, as at that time I could walk more than four times the distance without a cane that I can now with one, and in addition could walk then free from pain, whereas my foot now becomes tired and sore, and besides my leg and foot are both extremely sensitive to the cold, and when thoroughly chilled are almost as powerless as if in a state of paralysis. Believing that I have a just claim to be retired I have submitted this statement. I am now hopelessly lame for life, a condition I believe to be due to my sufferings and labors in the service of my country, in whose behalf I am ready, whenever the necessity may arrive, to lay down my life.

A. Sanders Piatt, late brigadier-general of volunteers, testifies that he has known Benjamin M. Piatt ever since he was seven years old, and up to the time of his enlistment in the Army. Prior to that time he was able to walk 10 or 15 miles a day without difficulty, which he often did on hunting and other excursions. He believes the hardships and exposures of active service in the field have disabled and permanently injured the said Benjamin M. Piatt.

Benjamin R. Runkle, brevet colonel, U. S. Army, testifies to substantially the same state of facts, as does also H. C. Borden. Dr. M. H. Harding, the family physician of the soldier's father, says he has known Major Piatt for twenty-five years, and although always slightly lame from an early period, he was comparatively active in the discharge of his father's business, and before the war of 1861 never used or seemed to need the use of a cane in walking.

F. W. Egan, colonel Fortieth New York State Volunteers, in concluding his report of the battle of Gettysburg, says of Major Piatt:

Too much can not be said of this brave and gallant officer; always cool under the most trying circumstances, and by his courage and example he afforded services that were of infinite value in restoring order to my command. When his horse was shot under him he still remained in the van, always by my side, greatly distinguishing himself by noble conduct.

There are a large number of letters from Army officers, generals, colonels, etc., all showing that the soldier was an exceptionally brave and efficient officer.

The following is an extract from official Army Register for January, 1885:

Retired from active service, Piatt, Benjamin M., 2d July, 1867. Bvt. Capt. July 2, 1867. Disability in line of duty (act August 3, 1861).

Miss Bell F. Hopkins testifies as follows:

I have resided in the family of the late Maj. Benjamin M. Piatt for the last ten years or more. He was during all that time an exemplary husband and father, with a heart full of kindly impulses for everybody. He lived one of the purest lives, his habits being without the least irregularity and remote as could be from intemperance in every form. His right leg from hip to foot was perishing away, weakening this limb to such a degree that it was very difficult for him to get about upon it. He could walk but a short distance, say five or six squares, without becoming so fatigued as to be obliged to take a car or other vehicle. The limb was very sensitive, and at times quite painful, and was the source of much annoyance to him, frequently disturbing his usually amiable temper and causing some irritability of speech and mind.

In the latter part of the year 1884, in passing down one of the stairs at the Gibson House, Cincinnati, he tripped and fell to the bottom, a distance of several feet, striking his forehead, over one of his eyes, on the marble floor. He remained unconscious from about 7 p. m. of that day until the next morning. The fall was a heavy one, as the major weighed over 220 pounds, and the forehead, face, and eye were black. From the effects of the fall he never entirely recovered. The side of his face on which he fell was withering away as a result of the fall, and he showed evident signs of softening of the brain. In my opinion, the fall, which was due to the enfeebled and sensitive limb, striking as he did upon his head, did more to cause the condition of mind which resulted in his death than any or all other causes or agencies. After this fall, and up to the time of his death, he complained of being dizzy and light-headed.

The affidavits of a large number of his neighbors who knew him long and well are to the effect that the major was a man of the highest order of morals, that his conduct was exemplary and strictly temperate, and that he was an ardent advocate of temperance.

He was on the retired list and had not applied for a pension at the time of his death, and no application to the Pension Office has since been made by his widow, as, owing to the manner of his death, she had no hope that an application would be favorably acted upon, and she therefore appeals directly to Congress for the relief she thinks she is justly entitled to.

After a careful consideration of the case, the committee are of the opinion that the death of the major may reasonably be considered to have been the result of the injuries to his limb received while serving in the Army, and in line of duty. In view of the long and valuable services the deceased soldier rendered the Government in its hour of need; the fact that he was retired for disabilities incurred in the Army; the needy condition of his family, and all the incidents leading up to the tragic end of the distinguished soldier, the committee are of the opinion that the relief asked for in the bill ought to be granted.

We therefore submit a favorable report and recommend the passage of the bill.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1617.

IN THE SENATE OF THE UNITED STATES.

AUGUST 22, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10202.]

The Committee on Pensions, to whom was referred the bill (H. R. 10202) granting a pension to O. E. Hukill, have examined the same and report:

The report on which this bill was passed by the House is concurred in, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10202) granting a pension to O. E. Hukill, submit the following report:

O. E. Hukill served as private in Company B, Eighteenth Regiment Iowa Volunteers, from July 26, 1862, to July 20, 1865, when honorably mustered out. He applied for pension October 23, 1882, alleging that he contracted disease of eyes in the winter of 1865, while stationed at Fort Smith, Ark., from which he was seriously disabled, until in June, 1881, when the left eye was injured by the kick of a colt, necessitating its removal two months afterward, and that from sympathetic action the right eye became totally blind a few months later. The Pension Office admitted the claim for disease of eyes and allowed a pension of $4 per month, but refuses to increase that rate.

Dr. H. R. Layton testified before the special examiner that he was called to see the claimant about two months after the receipt of the injury to left eye, which was inflamed, as was, also, the right eye. He amputated the left eye in the hope of relieving the right eye, but with no effect. About two weeks later the remainder of the left eye was extirpated, with no benefit whatever, as the inflammation was so great that it had caused destruction of the sight before the operation. In the opinion of the affiant the pre-existing disease of the eyes had a tendency to cause the inflammation produced by the injury to be more extensive and to become chronic, and had it not been for the diseased condition of the eyes before the injury the sight of the right eye could have been saved.

Dr. J. P. Maxwell, who was associated in the case, is of like opinion, as is Dr. H. C. Bone, who treated claimant for some years prior to the injury in 1881, and immediately thereafter. Hukill has no income from any source, and is now supported by charity.

Accepting these medical opinions, your committee must attribute this soldier's present deplorable condition as at least indirectly chargeable to his military service, and therefore report favorably on the accompanying bill.

The bill is reported favorably with a recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1618.

IN THE SENATE OF THE UNITED STATES.

August 22, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8059.]

The Committee on Pensions, to whom was referred the bill (H. R. 8059) granting a pension to Mrs. Emma A. Stafford, have examined the same and report:

The report on which this bill was passed by the House is concurred in and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8059) granting a pension to Mrs. Emma A. Stafford, submit the following report:

The proposed beneficiary entered the Medical College Hospital at Keokuk, Iowa, as nurse of the sick Iowa soldiers, in October, 1861, and remained in that capacity until after the battle of Shiloh, when she assisted in fixing up the Estes House for the sick and wounded from said battle, and continued as nurse in said house until the following fall, when, in a like capacity, she went South with the Twenty-third Regiment Iowa Volunteers. The severe illness of her mother necessitated, however, her return North, and shortly thereafter she again entered the Estes House Hospital at Keokuk, and remained there until broken in health, about May, 1863, when she left the service. Having sufficiently recovered, she again went on duty at said hospital in December, 1863, where she closed her labors in May, 1864, having received an appointment from the Christian Sanitary Commission as solicitor of supplies, in which capacity she served until the close of the war.

As a result of her labors in the hospital she is broken in health, and ever since the close of the war she has been under medical treatment. During most of her term of service she received no compensation.

The value of her services, her devotion to the sick and wounded, as well as her high moral standing and her need for assistance, are clearly shown by the evidence on file, and her petition for pension is indorsed by a large number of the most prominent citizens of Iowa.

The bill is reported favorably with a recommendation that it do pass.

O

51st CONGRESS, 1st Session. } SENATE. { REPORT No. 1619.

IN THE SENATE OF THE UNITED STATES.

AUGUST 22, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1466.]

The Committee on Pensions, to whom was referred the bill (H. R. 1466) granting a pension to Mrs. Mary Ewald, have examined the same and report:

The report on which this bill was passed by the House is concurred in and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1466) granting a pension to Mrs. Mary Ewald, submit the following report:

The proposed beneficiary is the divorced wife of Robert D. Ewald, who served as private in Company G, Fourteenth Indiana Volunteers, from June 7, 1861, to February 3, 1864; was a pensioner on account of chronic diarrhea and resulting disease of rectum, and gunshot wound of right thigh, and died from the effects of his army disabilities December 16, 1886.

It appears in evidence that the claimant's married life was not a happy one. The soldier's disabilities apparently affected his mind. He became eccentric and arbitrary in his action, and lacked that consideration due from a husband to his wife. Dissipation and many questionable transactions on the part of the soldier made life still more miserable for her. Failing to receive the support of herself and family, which the soldier could have provided had he not become dissipated, she was compelled to take in sewing and washing to keep up the family, and even supply him with articles of clothing. He became more and more abusive, until living with him was almost out of question. For two years or more she occupied different appartments in the same house. This only intensified his anger, and he threatened to apply for divorce, and finally carried out his threat. Mrs. Ewald having lived a long life of misery, preferred that the divorce should be granted, and therefore let the action proceed without defense. The decree of divorce issued November 21, 1885.

The soldier then became an inmate of the Soldiers' Home at Milwaukee, but soon again returned to his home in Iowa, entirely broken down, and without means, became an object of charity. Notwithstanding the long years of abuse and ill-treatment received at the hands of her late husband, Mrs. Ewald provided comfortable quarters for him at her home, and for eight months, and until his death, she tenderly cared for him as though there never had been any separation.

Rev. John Abrams testifies that he visited the soldier frequently during his last illness, and was greatly surprised to see him so comfortably situated in the best room in the house of his divorced wife. During all these visits affiant was delighted to see that the soldier received the best of care from the hands of Mrs. Ewald. He further testifies that on one occasion, and in the absence of Mrs. Ewald, soldier expressed his regrets for his actions which resulted in the separation, and acknowledged that Mrs. Ewald attended him with loving care at all hours.

Mrs. Ewald is shown to bear an excellent reputation in the community in which she had so long resided. Her acts of kindness to him who had voluntarily relinquished all claims upon her love and affection at a time when help was necessary, and friends had forsaken him, stamps her as a true Christian woman, and entitles her to the recognition she now seeks at the hand of Congress.

The bill is reported favorably with a recommendation that it do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1620.

IN THE SENATE OF THE UNITED STATES.

August 22, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10231.]

The Committee on Pensions, to whom was referred the bill (H. R. 10231) to increase the pension of Sanford Kirkpatrick, have examined the same and report:

The report on which this bill was passed by the House is concurred in, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10231) granting a pension to Sanford Kirkpatrick, submit the following report:

Kirkpatrick was a soldier of Company K, Second Iowa Infantry, and contracted disease of the eyes in the service, for which he receives a pension of $24 per month.

Kirkpatrick was an officer in the revenue service, and on February 25, 1890, when in the discharge of his duty as such officer, in attempting to arrest a "moonshiner" was by him shot in the face with a shotgun, from which wound he became totally blind.

Kirkpatrick and another officer, both being mounted, pursued said moonshiner to a cabin in the vicinity of where had recently been an "illicit still," and while they were looking in at the door Kirkpatrick was shot as above stated. His companion, however, owing to his good eye-sight, saw the threatened danger and avoided it by throwing himself from his horse, but Kirkpatrick, owing to his impaired vision, was unable to see the threatened danger in time to avoid it as did his companion, and was consequently shot in the face and became totally blind, and is now in needy circumstances.

The bill is reported favorably, with a recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1621.

IN THE SENATE OF THE UNITED STATES.

August 22, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11345.]

The Committee on Pensions, to whom was referred the bill (H. R. 11345) granting a pension to Thomas Beaumont, have exaimed the same and report:

The report on which this bill was passed by the House is concurred in and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11345) granting a pension to Thomas Beaumont, submit the following report:

Thomas Beaumont is now on the pension-roll at $36 per month. His disability amounts to the total loss of his left arm. It is not amputated, but is so mutilated from the shoulder down that he can not use an artificial limb, and has absolutely no use of his arm. His record is one of gallantry and long service. He enlisted October, 1861, in Company M, Ninth New York Cavalry, and re-enlisted December, 1863. He was wounded in the elbow and wrist in the Shenandoah Valley, in 1864. The surgeons removed 3½ inches of the humerus, and the entire ulna. The effect of this operation was to completely destroy the arm, the muscles of the shoulder being atrophied.

This remarkable surgical operation is fully reported in the surgical history of the rebellion. No one can examine his arm without concluding that his disability is equal to the amputation of the arm at the shoulder, or so near the shoulder as to prevent the use of an artificial limb. From below the point of amputation of the bone his arm swings like a pendulum, and is useless. The Pension Office, being guided by the letter of the law, which describes only a loss of the arm by amputation, have not been able to allow this claim, notwithstanding the arm is mutilated and destroyed by surgical operations fully as fatal to the use of the arm as amputation.

The bill is reported favorably with a recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1622.

IN THE SENATE OF THE UNITED STATES.

August 22, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10033.]

The Committee on Pensions, to whom was referred the bill (H. R. 10033) granting a pension to Isaac Riseden, have examined the same and report:

The report on which this bill was passed by the House is concurred in, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10033) granting a pension to Isaac Riseden, submit the following report:

Isaac Riseden claims pension on account of rupture incurred in an engagement with the enemy about February 15, 1864, while serving as first lieutenant of Company E, Eleventh Tennessee Cavalry. This claim has been rejected by the Pension Office on the ground that the records of the War Department fail to show that claimant was enrolled as an enlisted man or mustered into services as an officer of the Eleventh Tennessee Cavalry.

The incurrence of the disability under the circumstances alleged is clearly shown by the testimony of the lieutenant-colonel of the regiment and others. In fact the only point at issue is that upon which the rejection of his claim is based, and that would seem rather technical in view of the facts in the case.

Riseden, according to the records of the Adjutant-General's Office, was first enrolled as private of Company F, Seventh Tennessee Volunteers, August 8, 1862, and served until discharged, August 14, 1863, "for promotion to first lieutenant Company E, Eleventh Tennessee Cavalry."

The Adjutant-General further reports:

"The records of Eleventh Tennessee Cavalry on file in this office are very incomplete, there being no muster-rolls of Company E (with which company Riseden claims to have rendered service) on file, until one for March and April, 1864, which roll reports the company mustered in July, 1863. The name of Isaac Riseden does not appear on said roll. There is no officer borne on any rolls of said company prior to September 1, 1864. Riseden's name first appears on roll of said company dated October 31, 1864, with remark "a prisoner of war since February 22, 1864." He is similarly reported on roll November and December, 1864, which roll is the last one on which his name is borne. The company was in action February 22, 1864, and all its records captured. Prisoner of war records show Riseden captured said date at Cumberland Gap, Tenn., paroled at N. E. Ferry, North Carolina, March 1, 1865; reported at Camp Parole, Md. (date not given), and sent to Camp Chase, Ohio, March 10, 1865. No further information."

Under special act of Congress, approved June 22, 1874, Riseden was allowed the pay and allowance as first lieutenant Company E, Eleventh Tennessee Cavalry, from August 1, 1863, to March 10, 1865.

Notwithstanding the record heretofore referred to, and the action of Congress allowing him the pay of a first lieutenant of cavalry, the War Department declines to recognize Riseden as a member of the Eleventh Tennessee Cavalry, hence the inability of the Pension Bureau to take favorable action on his claim for pension.

Your committee, however, are of the opinion that Riseden served as claimed; and that he was ruptured in said service; and that he should no longer be kept out of his pension.

The bill is reported favorably, with a recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1623.

IN THE SENATE OF THE UNITED STATES.

August 22, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2279.]

The Committee on Pensions, to whom was referred the bill (H. R. 2279) granting a pension to Abraham W. Jackson, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The claimant in this case was a student in Waterville College (now Colby University), Waterville, Me., at the breaking out of the war. He was nineteen years of age at that time. In common with so many who were young in 1861, he left the college and enlisted as a private in Company C, Eighth Maine Volunteers, in September, 1861; was subsequently promoted to captain, and served faithfully until September 15, 1865, when he resigned his commission on account of "debility, consequent upon malarial fever, incurred in the Department of South Carolina," as shown by certificate of Assistant Surgeon-General Anson P. Hooker, under date of August 10, 1865. The soldier applied to the Pension Bureau for a pension on account of deafness in both ears in October, 1866. In his first application he stated that his deafness "was quite pronounced at the time of his discharge." In a subsequent paper he stated that his attention was drawn to his deafness within a month after he left the service, when his French teacher (he having resumed his studies immediately after his return from the Army), Dr. Armoutt, of Boston, detained him one day after class recitation and told him of the noticeable defect in his hearing. The evidence clearly shows that from this time on the disability increased, until now he can not hear without the aid of some mechanical appliance. The claim was rejected by the Pension Bureau because the soldier could not furnish evidence that he contracted the disease in the service.

Inasmuch as this defect in hearing came on just at the close of his term of service or within the month following, and was not of a marked character, his inability to furnish evidence of origin is not to be wondered at. The soldier was discharged on account of "debility consequent upon malarial fever."

Prof. J. B. Foster, of Colby University, states that when the soldier returned to college he noticed "the great change that had been wrought in him by his army experience. While his intellectual powers in general did not seem impaired, there was, it seemed to me, painful evidence that his nervous system had suffered a severe strain, if not a positive shock."

The soldier complained "of trouble in his head. And his appearance, his flushed face and swollen eyes, bore testimony to the truth of his statement."

It is reasonable to suppose that this deafness was the result of the malarial poison which the evidence clearly shows had injured the soldier's nervous system and had left him in a debilitated condition. However this may be, there is no reasonable doubt but that his deafness originated in the service, though it may not have developed to any marked extent until about the time of his discharge or within the first month thereafter.

The board of United States examining surgeons at Santa Barbara, Cal., which examined the soldier August 6, 1884, state that from the condition and history of the claimant, it is our opinion the disability was incurred in the service as claimed, and that it is not aggravated or protracted by vicious habits. The soldier after graduating from Colby University entered the ministry. The evidence shows that he is a man of a bright mind, great energy, and of irreproachable character. His prospects in life were bright, but they have been blighted by this disease and a brilliant career has been practically closed, having been compelled to resign his position as a clergyman, and being incapacitated from engaging in any business, he being almost totally deaf at the present time and in destitute circumstances. Such a sacrifice merits prompt and liberal recognition at the hands of a grateful country.

After a careful review of the evidence your committee is of the opinion that this is a case which clearly calls for Congressional action, and recommend the passage of the accompanying bill.

O

51st Congress, 1st Session. | SENATE. | Report No. 1624.

IN THE SENATE OF THE UNITED STATES.

August 25, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10154.]

The Committee on Pensions, to whom was referred the bill (H. R. 10154) granting a pension to John N. Harris, have examined the same and report:

The report on which this bill was passed by the House is concurred in, and is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. 10154) granting an increase of pension to John N. Harris, have considered the same, and report:

The claimant was a private in Company H, First Mississippi Volunteers, and served honorably in the war with Mexico.

He is now a pensioner at $8 per month on account of said service.

The evidence filed in support of the bill shows conclusively that the claimant is about sixty-nine years old, and for the past year has had no use of his legs, by reason of paralysis. His disability is such that he requires the constant attention of an attendant. It is further shown that the claimant is poor, and that he has not sufficient property or income to afford him a comfortable support.

In view of the facts stated, your committee think the relief prayed for should be granted, and the bill is therefore returned with a favorable recommendation.

The bill is reported favorably with a recommendation that it do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1625.

IN THE SENATE OF THE UNITED STATES.

August 25, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3587.]

The Committee on Pensions, to whom was referred the bill (H. R. 3587) granting a pension to Stacey Keener, widow of Tillman B. Keener, who served in the Indian war, have examined the same and report:

The report on which this bill was passed by the House is concurred in, and is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. 3587) granting a pension to Stacey Keener, have considered the same and beg leave to report:

The claimant's deceased husband, Tillman B. Keener, was a musician in Capt. Lawson J. Keener's Company of Col. William Wellborn's Regiment Alabama Mounted Volunteers, Indian war, from April 19, 1837, to August 19, 1837.

The claimant prays a pension at the same rate as is allowed by law to the widows of the soldiers of the war of 1812.

She is old, has no income, and is supported by relatives. These facts are vouched for by Mr. McRae, a Representative in Congress from the State of Arkansas.

Your committee think the case a deserving one and the passage of the bill is therefore recommended.

The bill is reported favorably, with a recommendation that it do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1626.

IN THE SENATE OF THE UNITED STATES.

August 25, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5654.]

The Committee on Pensions, to whom was referred the bill (H. R. 5654) granting a pension to Elizabeth R. Lockett, have examined the same and report:

The report on which this bill was passed by the House is concurred in and is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. 5654) granting a pension to Elizabeth R. Lockett, have considered the same and report as follows:

The claimant's late husband, Osborne Lockett, was a private in Captain George River's company of Alabama Volunteers, and served from May 15 to June 7, 1836, in the Florida Indian war. He was paid for twenty-four days' service.

The evidence filed in support of the bill shows that the claimant is of good character, about fifty-four years old, in needy circumstances, with no income, and largely dependent upon relatives for support.

In view of the facts stated your committee recommend the passage of the bill.

The bill is reported favorably with a recommendation that it do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1627.

IN THE SENATE OF THE UNITED STATES.

August 25, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 3649.]

The Committee on Pensions, to whom was referred the bill (S. 3649) to increase the pension of Katherine W. Howell, have examined the same and submit the following report:

Mrs. Katherine W. Howell is the widow of the late Brig. Gen. Joshua B. Howell, commander of the Third Division, Tenth Corps, United States Army. He was killed during the siege of Petersburgh on the 15th of September, 1864, while in command of the Third Division, Tenth Corps.

General Howell entered the service of his country in the earliest period of the war as colonel of the gallant and battle-tried Eighty-fifth Pennsylvania Volunteers. In almost every battle of the first campaign on the Peninsula, at Williamsburg, at Fair Oaks, protecting the retreat on Harrison's Landing, General Howell bore a prominent and often a distinguished part. He was the first to land his troops upon the island that gave the Union forces their firm foothold for the siege of Charleston; was commandant at Hilton Head, and served with honor in the Army of the James, and everywhere maintained a reputation high and growing for all the noble traits that are essential to the character of a gentleman and soldier.

General Alfred H. Terry and General Q. A. Gillmore have testified in personal letters to his exhaustless ability and great bravery, the former stating—

> General Howell as a soldier, an officer, and a patriot had few equals and no superior; he was a loss both to the Army and the country.

Mrs. Katharine W. Howell is now of advanced age and an invalid. In view of the distinguished services of her husband in the defense of his country and her indigence and dependence and in order that she may pass the few remaining years of her life in comfort, Mrs. Howell is entitled to $50 per month in lieu of her present pension of $30 per month

The bill is reported favorably with a recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1628.

IN THE SENATE OF THE UNITED STATES.

August 25, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3734.]

The Committee on Pensions, to whom was referred the bill (H. R. 3734) granting a pension to John Mann, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 3734) granting a pension to John Mann, submit the following report:

The claimant, John Mann, was a corporal in Company D, First United States Infantry, from November 18, 1841, to November 18, 1846. From the commencement of the Mexican war to the date of his discharge he was stationed at Fort Snelling, Ind. T. His pension claim for a service pension under the act of January 29, 1887, granting pensions to the survivors of the Mexican war, was rejected on the ground that claimant was not in Mexico, on the frontier thereof, or en route thereto during the war with that nation.

At the first session of the Fiftieth Congress the Committee on Pensions favorably reported a bill amendatory of the Mexican pension act, and by which pension is recommended to be allowed to those soldiers who, though not in Mexico, were stationed at forts and elsewhere in lieu of soldiers who were sent to the seat of war.

Under such an amendment this claimant would be entitled to a pension. Moreover, it appears in proof that this man, a non-commissioned officer, was detailed to remain at Fort Snelling to drill recruits who were subsequently sent to the seat of war.

Evidence before the committee shows that Mann is now over seventy years of age, in poor health, without property, and is supported along with his aged wife by two step-sons.

Your committee are of the opinion that a pension should be granted in this case, and hence report it back recommending its passage.

O

51st Congress, 1st Session. | SENATE. | Report No. 1629.

IN THE SENATE OF THE UNITED STATES.

August 25, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11547.]

The Committee on Pensions, to whom was referred the bill (H. R. 11547) granting a pension to Lucinda Chapin, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11547) granting a pension to Lucinda Chapin, submit the following report:

Lucinda Chapin is the step-mother of William A. Chapin, who enlisted as private in Company G, Twenty-eighth Regiment New York Volunteers, in April, 1861, and was killed in the battle of Cedar Mountain, Va., August 9, 1862.

Being soldier's step-mother she has no title to pension under existing laws.

It appears in evidence that the soldier was only nine years of age at the time of Lucinda Chapin's marriage to his father. She then had a small homestead on which the soldier and his father resided until their death. She took motherly care of the soldier, who, as he grew older, recognized his obligations by aiding in her support. None of the family had any income except that derived from their manual labor. After his enlistment the soldier continued to contribute to the support of his father and step-mother, whom he only knew as a mother. Soldier left neither wife nor child surviving him. His father died in 1864, at the age of seventy-nine years, since which time the claimant has been dependent entirely upon her own efforts for support, her small homestead, valued at $300, affording her no income.

The writer of this report is personally cognizant of nearly all the facts therein set forth and knows that the proposed beneficiary is worthy of the relief asked for.

The case coming within the well-established rules of Congress relative to this class of claimants, your committee report favorably on the accompanying bill, and ask that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1630.

IN THE SENATE OF THE UNITED STATES.

August 25, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9590.]

The Committee on Pensions, to whom was referred the bill (H. R. 9590) granting a pension to Matilda Evans, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9590) granting a pension to Matilda Evans, submit the following report:

Matilda Evans was the adopted mother of George Stokes, who enlisted in Company C, Sixty-third Pennsylvania Volunteers, ———, 1861, and died in Salisbury prison, North Carolina, January 23, 1865. At time of his death his regiment had been consolidated with the One hundred and fifth Pennsylvania Volunteers. The evidence satisfactorily proves that said George Stokes was adopted by Mr. E. D. Evans and Matilda Evans, his wife, when an infant but thirteen months old, at the solicitation of neighbors; that said Stokes had no known relatives or friends; that they nurtured, cared for him as their son and heir in affection until he enlisted, at nineteen years of age; that E. D. Evans, adopted father, is dead; that beneficiary is now sixty-six years of age and dependent, and very poor. The soldier's arrears of pay and bounty was paid to an administrator appointed for that purpose. Your committee recommend the passage of the bill.

O

51st Congress, 1st Session. | SENATE. | Report No. 1631.

IN THE SENATE OF THE UNITED STATES.

August 25, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6676.]

The Committee on Pensions, to whom was referred the bill (H. R. 6676) granting a pension to John J. Tully, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 6676) granting a pension to John J. Tully, have considered the same and report as follows:

The claimant is shown by the records of the Treasury Department to have been engaged as a member of the life-saving crew at Louisville, Ky., on November 3, 1881, and that he served until April 1, 1882, when he refused to re-engage. He declares that in March, 1882, he, with two other members of the crew, went out from the life-saving station at Louisville to the rescue of three men in a skiff; both skiffs went over the dam and upset. When he (claimant) came up in the reaction of the dam the oar-lock of the life-saving skiff hit him in the left breast and knocked him back in the reaction again. This injury, together with the cold and exposure undergone at the time, has resulted in a serious permanent disability, and the claimant now finds himself unable to do the work necessary to support his wife and five small children. The claimant further declares that in addition to the service above named he was a volunteer life-saver for seven years, and used his own boats; also, that he has saved one hundred and ten lives and rescued many boats.

Several instances of the brave and valuable work of this claimant as a life and property saver are referred to in the official report of the Life-Saving Service for the year 1882, and (while the injury on which he bases his application for a pension is not specifically mentioned) it is shown that at the time and under the circumstances set forth by the claimant in his petition he and other members of the life-saving crew were thrown into the water by the capsizing of their boat.

The claimant's standing as a truthful, honest, and industrious man, as well as the fact that he is and has been for several years seriously disabled for the performance of manual labor by reason of the injury of the chest, received as hereinbefore described, is shown by a mass of testimony, medical and lay, which accompanies the bill.

A resolution passed by the Kentucky legislature April 25, 1890, reads as follows:

"Whereas John J. Tully, a citizen of Louisville, Ky., and one of the three heroic men who devoted their lives and means to the saving of human life on the Falls of the Ohio River for seven years, and who was one of the originators of the present efficient life-saving service at said falls; and

"Whereas, whilst in the service of the United States as a member of the said life-saving service, and whilst on duty under orders of his chief on the falls saving the life of fellow-beings, the boat in which he and others of the crew were was swept

over the dam and capsized, and from the injuries received at the time and the exposure in the cold water he was permanently injured: Therefore,

"*Be it resolved by the general assembly of the Commonwealth of Kentucky*, That our Representatives and Senators in Congress be, and they are hereby, requested to use all legal means to obtain a pension for said Tully from the Government that he served so well and faithfully.

"SEC. 2. This resolution to take effect from and after its adoption."

Your committee at the first session of the Fiftieth Congress favorably reported a general bill providing for extending the provisions of the pension laws to members of the Life-Saving Service, and still believing this class of claims to be just and equitable they return the bill with the recommendation that it do pass, amended, however, as follows: Strike out the words "a monthly pension of fifty dollars" in line 6 and substitute in lieu thereof the words "the same pension as is allowed by law to private soldiers for the same degree of disability."

O

51st Congress, 1st Session. | SENATE. | Report No. 1632.

IN THE SENATE OF THE UNITED STATES.

August 25, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9692.]

The Committee on Pensions, to whom was referred the bill (H. R. 9692) granting an increase of pension to John A. Johnson, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9692) granting a rerating of pension to John A. Johnson, submit the following report:

The claimant, John A. Johnson, was major of the Sixth Kansas Cavalry. At the battle of Kane Hill, Mo., on the 28th day of November, 1863, he was first lieutenant and in command of Company A, of the Sixth Kansas Cavalry. While gallantly leading his company in a charge on a rebel battery which was posted in a gorge of the Boston Mountains, he received a gunshot wound, the ball entering the left axilla, passed inward and backward under the scapula and made its exit, having passed through the left lung at the fifth dorsal vertebra. Claimant is pensioned at $12 per month for gunshot wound as above stated. The Pension Office rejects an increase on the grounds of not accepting the present physical and mental disabilities of claimant as the result of his gunshot wound.

Dr. L. T. Grubbs, an eminent physician of Topeka, Kans., makes affidavit that the applicant is anxious and restless. The spinal senses are defective, sense of smell being absent; taste and sight impaired one-quarter to one-half; powers of co-ordination imperfect; very pronounced tenderness over cervical and dorsal region of spine; respiratory murmur over upper portion of left lung very indistinct; left lung and pleura adherent to posterior chest wall. Gunshot wound carried away a portion of fifth dorsal vertebra, producing permanent injury to spine, and that it is his opinion that the above-described phenomena are due to said lesion, and that he is totally incapacitated for the performance of any manual labor.

Dr. Charles C. Green testifies that he finds evidence of gunshot wound, point of entrance left axilla ranging inward and backward, exit left of fifth dorsal vertebra, fracturing fifth rib, transverse process of fifth dorsal vertebra, and injury to left lung by adhesion and lessened respiratory murmur through area of lung. General nervous disturbance rendering claimant unable to perform any manual labor.

Dr. S. E. Sheldon, one of the most prominent physicians of Topeka, testifies giving substantially the same diagnosis, adding that heart's action is irritable, pulse 96 per minute, general nervous prostration and debility.

Dr. Mitchell testifies that he has known claimant for thirteen years; that he is, and has been, ever since he knew him, a mental and physical wreck, and that these conditions are clearly traceable to the gunshot wounds; that he is totally incapacitated for either mental or physical labor of any kind.

Doctors Plummer, Burgen, and Dowling testify that the gunshot wound above described and resulting disabilities entirely incapacitate the claimant for the performance of either physical or mental labor. Major Johnson is a man of excellent reputation, temperate in all his habits, and without means of support.

Your committee believe this is a very meritorious claim, that claimant's disabilities are clearly shown to be, by the best of medical authority, the results of his wound received in defense of his country, therefore recommend that the bill do pass with the following amendments: Amend the title of the bill by striking out the words "rerating of" and all after the word "volunteers," in line 7, and inserting instead, "and pay him a pension at the rate of fifty dollars per month in lieu of the one he is now receiving."

O

51st Congress, 1st Session. | SENATE. | Report No. 1633.

IN THE SENATE OF THE UNITED STATES.

August 25, 1890.—Ordered to be printed.

Mr. Paddock, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2414.]

The Committee on Pensions, to whom was referred the bill granting increase of pension to Nelson Rich, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2414) granting a pension to Nelson Rich, submit the following report:

The claimant was a member of Company D, Third Michigan Infantry, with which command he served nearly two years. He was discharged from the service March 4, 1866, for disability, chronic diarrhea, and he was granted a pension at the rate of $6 per month. It is in evidence that the claimant has become totally blind, and that he has never recovered from the disease for which he was pensioned. He applied for an increase of this pension on account of loss of sight, but it was rejected on the ground that chronic diarrhea would not cause blindness.

Upon this question there is a great difference of opinion, but it has been conceded by all the late medical authorities that chronic diarrhea would cause blindness. There is no evidence of any other disease.

It is shown by record evidence that he was a man of good habits, and that he is totally blind and helpless, he has been for many years.

Your committee believe this is a meritorious case and recommend the passage of the bill, amended as follows: To place him on the pension rolls at the rate of $40 per month.

51st Congress, 1st Session. | SENATE. | Report No. 1634.

IN THE SENATE OF THE UNITED STATES.

August 25, 1890.—Ordered to be printed.

Mr. Paddock, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2415.]

The Committee on Pensions, to whom was referred the bill granting a pension to Nancy Carey, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended, is adopted, and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2415) granting a pension to Nancy Carey, submit the following report:

Nancy Carey had two sons in the service in the war for the Union who were members of Company G, One hundred and fifth New York Infantry. On the 20th of March, 1862, Mrs. Carey entered the service as nurse; she was assigned to duty near Warrenton, Va; here she was disabled by a sunstroke; while going to Culpeper, after convalescence, she was captured by the enemy and held as a spy at Waterloo Bridge until released by General Jackson. Mrs. Carey cared for the wounded at the following battles: Centreville, Culpeper, Cedar Mountain, Second Bull Run, Antietam, Chancellorsville, and Gettysburgh; at the latter place one of her sons was wounded.

Mrs. Carey served for three years as an army nurse. The whereabouts of her sons is unknown, and she fears that they are dead. Mrs. Carey is seventy-seven years of age, has a small home that is mortgaged; she lives on said premises with an invalid daughter. The claimant is enfeebled by reason of age and three years' service as a faithful nurse of the sick and wounded. Her father was a soldier in the war of the Revolution, was in the battle of Bunker Hill, where he lost an eye, but remained in the service during that war.

The committee recommend the passage of the bill with the following amendment: Strike out the word "Casey" in the title and fifth line of the bill, and insert the word "Carey."

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1635.

IN THE SENATE OF THE UNITED STATES.

AUGUST 25, 1890.—Ordered to be printed.

Mr. PADDOCK, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2427.]

The Committee on Pensions, to whom was referred the bill granting a pension to Fletcher Galloway, have examined the same and report: The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2427) granting a pension to Fletcher Galloway, submit the following report:

The said Fletcher Galloway enlisted May 9, 1861, as a private in Company B, Thirteenth Illinois Infantry, and was subsequently transferred to Company A, Fourth Regiment Veteran Reserve Corps. He was honorably discharged June 18, 1864, at Rock Island, Ill. The records of the War Department show that he participated in battles at Chickasaw Bayou, December 28–9, 1862; Arkansas Post, January 11, 1863; at Jackson, Miss., May 14, 1863, and at the siege of Vicksburg from May 18 to July 4, 1863. He was transferred to the Veteran Reserve Corps November 7, 1863, at St. Louis, Mo., ill from the effects of peritonitis and incipient consumption. April 23, 1883, he applied for pension, and in his declaration alleged a wound on the head from a bayonet thrust, in the line of duty, in an engagement at Rolla, Mo. His declaration further alleged chronic diarrhea, liver and kidney complaint, brought on by exposure in the Army service.

This claim was supported by the testimony of comrades who were with him in the same company and knew he was sick with dysentery and the maladies alleged; also by surgeons who treated him for disease of the brain occasioned by a bayonet thrust in battle, as he alleged, resulting in insanity.

The surgeon at the asylum testified to finding a scar on the right side of the frontal bone 1½ inches in length, extending back over the anterior part of the parietal bone, but no evidence of fracture of skull.

Comrades testified that when Galloway entered the service in 1861 he was a strong, healthy young man, and when he returned in 1864 evidence was offered to show that he was a physical wreck. For three or four years prior to 1882 he was regarded as deranged, and in November, 1882, he was incarcerated in the Eastern Michigan Asylum. He was subsequently returned home as not dangerous.

Again, on September 3, 1887, he was admitted to the Michigan Asylum at Kalamazoo, and has since remained there. The surgeons who examined him by order of the probate court of Eaton County, at Charlotte, Mich., testified that "he is a dangerous person, becoming at times wild and uncontrollable, threatening the life of all who may be near him, etc."

His wife testified that in one of these fits he burned up all his discharge papers, but she had frequently heard him say that the trouble with his head was caused by a bayonet or saber wound in a skirmish with the enemy. His wife further testifies that she is left to care for six children, and that she has no means of support save what she can earn and what little the children can earn by doing chores; that she is in a needy and destitute condition, and that she has been compelled to call upon the

people of Eaton Rapids, Mich., for help. The soldier, Fletcher Galloway, is supported by the State as an indigent insane person.

The Pension Bureau rejected this soldier's claim for pension June 2, 1887, and upon review persisted in that rejection on the ground that "no disability from alleged causes has existed in a pensionable degree since filing claim." The final rejection appears to be based upon the affidavit of Dr. Edwards, of the Kalamazoo asylum, made January 21, 1888, to the effect that Galloway is in good health, though unquestionably insane and vicious, requiring the constant attendance of another person.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1636.

IN THE SENATE OF THE UNITED STATES.

AUGUST 26, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1338.]

The Committee on Pensions, to whom was referred the bill (H. R. 1338) granting a pension to Mary A. Green, have examined the same and report:

The report of the House on which this bill was passed is concurred in and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1338) granting a pension to Mary A. Green, submit the following report:

William A. Green, the soldier and husband of the beneficiary, Mary A. Green, was colonel of the Twenty-ninth Regiment of Wisconsin Volunteers in the late war. He was a gallant soldier and made an honorable record. He lost his health in the late war, and at the time of his death, July 13, 1880, was drawing a pension of $30 per month. He died with the disease for which he was pensioned, leaving Mary A. Green the beneficiary, and four children under the age of sixteen years. His widow and children succeeded to the pension in consequence of the death of the husband and father. On the 10th day of August, 1881, the widow was married to one J. J. Bennett and ceased to draw a pension from that time. The youngest child became sixteen years of age on the 8th day of July, 1888, and no pension has been drawn on account of the death of Colonel Green since that date.

The husband, J. J. Bennett, never contributed any support to the beneficiary. They lived together for a few years, during which time he ill-treated and wholly neglected his wife until they finally separated, and on the 11th day of June, 1889, the court granted a decree of divorce separating the parties on the ground of cruel and inhuman treatment and an utter failure to provide her support. It appears from the records in court and from affidavits that the treatment of Mrs. Green practiced upon her by her husband was such as to make it impossible for her to live with him, while he had used and wasted all her means until she was obliged to support herself and children by teaching school, and is now working out by the week to maintain herself. She has always been a woman of excellent character and entirely worthy. In the judgment of divorce her name was changed back to her former name of Green, which she now bears.

The bill is reported favorably with a recommendation that it do pass.

1ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1637.

IN THE SENATE OF THE UNITED STATES.

AUGUST 26, 1890.—Ordered to be printed.

[r. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2965.]

The Committee on Pensions, to whom was referred the bill (H. R. 965) granting a pension to Rachel Barnes, have examined the same nd report:

The report on which this bill was passed by the House is concurred ı, and is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. 2965) granting pension to Rachel Barnes, have considered the same, and respectfully submit the llowing report:

The claimant's late husband, William Barnes, was a private in Company I, Second nited States Infantry, and served from February 24, 1838, to February 24, 1841. uring a part of his term of enlistment the soldier participated with his command the Florida Indian war.

On the 3d of July, 1880, William Barnes filed an application for pension in the Pen- on Bureau, declaring that he contracted disease of eyes in Florida in 1840-'41, and nsiderable testimony tending strongly to sustain his claim was filed, but the Pen- on Bureau refused to accept the evidence as sufficient to establish the claim and jected it. The soldier died March 24, 1882, and his widow (the beneficiary under is bill) filed an application for pension, but her claim was also rejected. Ground: Soldier's death from insanity forty-one years after service had no connection with ıe service."

The claimant is now about seventy-four years old, and as numerous precedents have ɔen established by Congress for the pensioning of the aged widows of the soldiers of e old Indian wars, the bill is reported back with the recommendation that it do ıss.

The bill is reported favorably with a recommendation that it do pass.

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1638.

IN THE SENATE OF THE UNITED STATES.

AUGUST 26, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8210.]

The Committee on Pensions, to whom was referred the bill (H. R. 8210) granting an increase of pension to Maria L. Caraher, have examined the same and report:

The report on which this bill was passed by the House is concurred in and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8210) granting an increase of pension to Maria L. Caraher, submit the following report:

That she is the widow of Andrew P. Caraher, whose military record is as follows: He was appointed captain, Company A, Twenty-eighth Massachusetts Volunteers, December 13, 1861. He was wounded at battle of Fredericksburgh, in storming Marye's Heights, severely in the head. He was wounded also at battle of Chancellorsville in the right groin; also bayonet wound over heart, in the shoulder. He was promoted for gallantry on the field to lieutenant-colonel in the Veteran Reserve Corps, September, 1864; appointed in February, 1865, colonel Second United States Volunteers. He was in actual command of his regiment in several of the battles in which his regiment was engaged. He participated in battles of Second Bull Run, Chantilly, Chancellorsville, James Island, South Mountain, Antietam, Fredericksburgh, and Gettysburgh. He was honorably discharged, January 6, 1867.

Subsequent to the war he was, March 5, 1867, appointed first lieutenant Forty-third United States Infantry; promoted to captain July 26, 1868, for gallant and meritorious service at the battle of Gettysburgh; March 20, 1873, appointed captain Eighth United States Cavalry.

Letters of Major-General Hancock commend his gallantry and refer to his sufferings from wounds as hastening his death.

He served with credit, in important duty, the Freedman's Bureau in South Carolina, also at Fort Wayne, Mich., Fort Foster, N. Y., in New Mexico, Colorado, and Texas during the last years of his life, until he died, April 4, 1885.

His widow was only allowed a captain's pension by the Pension Office. She finds it inadequate to the support of herself and her two daughters in their delicate condition and her straightened circumstances.

Your committee, believing it just that she should, on account of her husband's services and rank, be placed on the rolls equal with other colonels of volunteers, recommend the passage.

The bill is reported with an amendment, striking out the words after the word "to" in the fourth line and inserting "increase the pension," and as thus amended the bill is reported with a recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1639.

IN THE SENATE OF THE UNITED STATES.

August 26, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 2279.]

The Committee on Pensions, to whom was referred the bill (S. 2279) granting an increase of pension to Maria L. Caraher, have examined the same and report:

A similar bill having been passed by the House, this bill is reported adversely with a recommendation that it be indefinitely postponed.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1640.

IN THE SENATE OF THE UNITED STATES.

AUGUST 26, 1890.—Ordered to be printed.

Mr. FRYE, from the Committee on Commerce, submitted the following

REPORT:

[To accompany S. 4325.]

The Committee on Commerce, to whom was referred the bill (S. 4325) to provide an American register for the steamer *Neptuno*, having considered the same and accompanying evidence, report as follows:

The steamer *Neptuno* was built in 1873 at Sunderland, England, by Osborne & Graham, her tonnage being 870 tons. She was purchased from Tathan, Bromage & Co., the original owners, by John McIntyre, a resident of Jersey City, N. J., and an American citizen, for $33,000, and has since been engaged in the fruit trade plying between New York and the West India Islands. While so employed, but after leaving American waters, on one of her southern trips she was seriously damaged in a severe storm which she encountered. These injuries have been since repaired in an American yard and by American workmen at a cost of $36,058.65, as is evidenced by sworn vouchers and receipts submitted to your committee.

The *Neptuno* was appraised by a board of marine surveyors August 13, 1890, after having been repaired, and her valuation fixed at $35,000. This appraisement was made under oath.

The general statute requires that the repairs must equal three-fourths of the value of the vessel after having been repaired; that this sum must be expended in American ports, with American capital, and that the work shall be performed by American labor.

The testimony shows an expenditure at the port of New York of American capital of $36,058.65 for repairs on this vessel, which is in excess of the required proportion, but owing to the fact that the injuries were sustained outside of American waters, a special act of Congress is required before her owner can obtain an American register for his vessel which has been substantially built in the United States by American labor.

Your committee recommend the passage of the bill.

O

51st Congress, 1st Session. | SENATE. | Report No. 1641.

IN THE SENATE OF THE UNITED STATES.

August 26, 1890.—Ordered to be printed.

Mr. Paddock, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6070.]

The Committee on Pensions, to whom was referred the bill (H. R. 6070) granting a pension to Agnes M. Bradley, widow of George W. Bradley, late a captain and assistant quartermaster, U. S. Army, have examined the same and report:

Upon an examination of the evidence in this case, the committee find the facts clearly and accurately set forth in the appended House report, and adopt it as their own.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6070) granting an increase of pension to Agnes M. Bradley, submit the following report:

That Agnes M. Bradley is the widow of George W. Bradley, who was appointed captain and assistant quartermaster December 4, 1862. Served as lieutenant-colonel and assistant quartermaster from September 17, 1864, to November 6, 1864, and as colonel and quartermaster from November 7, 1864, to October 18, 1866, and accepted commission as captain and assistant quartermaster, United States Army, to date November 15, 1865. In this rank he continued in the service, on duty, until his death, February 20, 1882. He served during the war as chief quartermaster, Tenth Corps, in the field; chief quartermaster City Point, Va.; chief quartermaster middle division department, and depot quartermaster, Baltimore, Md. After the war, at various points: Fort Riley and Fort Harker, Kans.; Fort Union, Tex.; Charleston, S. C.; Bismarck, Dak.; St. Paul, Minn.; Yuma Depot, Ariz.; San Francisco, Cal.; San Antonio, Tex., and Philadelphia. His widow was allowed a pension at $20 for his rank at time of his death.

The committee, in view of the long and faithful service of this officer, recommend the passage of the bill, amended to give her a pension according to the rank held by her husband during the war.

Amend by striking out "fifty" and inserting "thirty."

O

51st Congress, 1st Session. | SENATE. | Report No. 1642.

IN THE SENATE OF THE UNITED STATES.

August 26, 1890.—Ordered to be printed.

Mr. Paddock, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 7869.]

The Committee on Pensions, to whom was referred the bill (H. R. 7869) granting a pension to Sophia J. Dimick, widow of Edwin W. Dimick, late of Company A, One hundred and sixth New York Volunteers, have examined the same, and report:

The facts in this case are substantially stated in the subjoined House report, which is adopted as a part of the report of this committee with the recommendation that the bill do pass.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7869) granting a pension to Sophia J. Dimick, submit the following report:

March 29, 1884, claimant filed application for a pension, alleging that she was the widow of Edwin W. Dimick, who enlisted in Company A, One hundred and sixth New York Volunteers, August 9, 1862, and was discharged June 29, 1865, and who died January 17, 1881, at Harvard, Nebr. Her application was rejected January 27, 1890, on the ground that husband's fatal dropsical effusion into the cavity of the heart as a result of disease of kidneys was not shown to have been due to his military service. Marriage to Edwin W. Dimick and continued widowhood since husband's death are proven by four witnesses. At the time of death her husband was drawing a pension of $6 per month for piles.

Four witnesses testify to prior soundness of husband, and abundant proof is given of his continued disability from the time of his discharge to the time of his death; that a portion of the time he was wholly disabled from the performance of any manual labor and was compelled to live upon the charity of the public; thirty-six members of Richardson Post No. 60, G. A. R., located at Harvard, Nebr., declare the applicant fifty-five years of age, infirm, and living upon the charity of the public.

January 21, 1890, Dr. M. W. Wilcox testified to having treated Edwin W. Dimick from time to time from the year 1874 until the time of his death; that the said Dimick was badly troubled with hemorrhoids and varicose veins; that his health gradually declined, and that he was unfit for manual labor; that toward the close of his life he had lung difficulty well developed, and dropsy, and finally heart failure, "as a result of the exposures and diseases contracted while in the service of the United States during the late war."

Your committee have no hesitancy in recommending the passage of the bill, and so do.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1643.

IN THE SENATE OF THE UNITED STATES.

AUGUST 27, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6218.]

The Committee on Pensions, to whom was referred the bill (H. R. 6218) granting an increase of pension to Alexander Forsyth, have examined the same and report:

The report on which this bill was passed by the House is concurred in and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6218) to increase the pension of Alexander Forsyth, submit the following report:

Claimant was granted an increase by special act in the Forty-ninth Congress. Following is the report which was submitted by the committee at that time:

"Claimant enlisted September 10, 1861, in Company C, Second Regiment Reserve Corps, and was discharged November 2, 1864. He applied for a pension in August, 1865, for gunshot wound of right leg, which was granted. In addition he received a slight wound in the shoulder. In 1880 he applied for an increase, alleging rheumatism, resulting from the wounds. This was rejected on the grounds that there was no outward sign of that disease. Dr. A. M. Cowan, a physician of high standing and character, who has been claimant's family physician for nine years, testifies that he has been unfit for any labor on account of traumatic neuralgia, resulting from the wounds during all that time.

"Claimant is now seventy-two years of age, without means of support, and has been for years unable to perform manual labor on account of his wounds and the resulting neuralgia. For the wound in the shoulder he has never had any pension, as it was received while a prisoner of war in Mississippi, and he was unable to make the required proof."

Your committee find that the four years added to this old soldier's life have brought increased disability. He is now seventy-six years old, in destitute circumstances, and utterly incapacitated for the performance of any labor. The claimant is rated at $20, and as this rating was fixed by special act, the Pension Bureau can not increase it under existing law.

The bill is reported favorably with a recommendation that it do pass.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1644.

IN THE SENATE OF THE UNITED STATES.

AUGUST 27, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 7338.]

The Committee on Pensions, to whom was referred the bill (H. R. 7338) granting a pension to Louisa M. Sippell, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7338) granting a pension to Louisa M. Sippell, submit the following report:

That the claimant is the widow of William E. Sippell, late a private in Company H, Tenth New Jersey Volunteer Infantry; that he was severely wounded in action in July, 1864, being struck by a rifle ball in the thigh, the ball splintering the bone and remaining in the leg; that he was in hospital fourteen months and thereafter was ever disabled; that in 1879 he submitted to an operation by which the ball was removed from his leg, and, the wound healing, there was no further discharge; that thereafter his lungs were affected and general health impaired. He grew worse until 1885, when he was admitted to hospital in Jersey City, where in that year he died from lung disease and affection of the brain, induced by blood-poisoning, the result of his wound.

The deceased was a pensioner, and his continuance of disability is shown by the testimony of Edward Hofner and John W. Rieber. The claimant admits she is unable to furnish medical testimony as to cause of death owing to death of attending physician, but swears said physician said her husband died from insanity and blood-poisoning, caused by wound, and Edward Le Court, a competent witness, testifies to similar statement of physician.

In view of the foregoing, your committee are of the opinion that claimant's husband's death was a result of his army service, and recommend the bill do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1645.

IN THE SENATE OF THE UNITED STATES.

August 27, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11169.]

The Committee on Pensions, to whom was referred the bill (H. R 11169) granting a pension to Isadora Ritter, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11169) granting a pension to Isadora Ritter, submit the following report:

That the claimant was the wife of Joseph J. Dimick, who was major of the Eighty-second New York Volunteers, and who died in the service in June, 1862, and the claimant received pension as such widow until March, 1872, when she married one August Ritter, and her said pension was thereafter paid to her son until he reached the age of sixteen years, in June, 1874; since that date no one has received any pension on account of the death of this soldier. Her second husband proved to be a man of intemperate habits and failed to support the claimant, and the claimant was compelled to leave him; that her second husband died in March, 1889; that the claimant is now fifty-seven years old and poor, and in poor health, and in view of the many precedents for such action your committee recommend the passage of the bill.

O

51st Congress, 1st Session. | SENATE. | Report No. 1646.

IN THE SENATE OF THE UNITED STATES.

August 27, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11355.]

The Committee on Pensions, to whom was referred the bill (H. R. 11355) granting a pension to Mary L. Brown, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11355) granting a pension to Mary L. Brown, submit the following report:

Mary L. Brown is the dependent mother of Josiah R. Brown, who enlisted in Company K, Fifty-sixth Pennsylvania Volunteers, March 6, 1862, and was discharged July 1, 1865. The soldier was wounded by gunshot through right shoulder-blade and the spinal column, and was pensioned therefor. The father of said soldier was incapacitated from manual labor at the time of his son's enlistment, and until said father's death in 1873. The soldier's wound incapacitated him from hard labor, and further, being in the spine, affected his back and hips in such way that he was incapable of governing or recovering himself when out of a perpendicular position, by which he was frequently thrown down. The evidence shows he was, in his struggle to maintain himself, his mother, and father, given light labor in the Erie depot, Susquehanna, Pa., oiling machinery, etc. From thence he was placed sometimes on the train, where, losing his balance by reason of his peculiar weakness of back and hips from his wound, he was found dead by the side of the track.

Samuel Birdsall, M. D., of medical examining board, after describing how the wound weakened his power to maintain his perpendicular balance, his liability to fall, says:

"His death, resulting as it did from a fall from a freight-car while setting a brake, may justly be attributed to the disability resulting from the wound for which originally pensioned."

There is ample and satisfactory proof of dependence both at time of soldier's death and enlistment, but there exists a bar to the mother, who is now an object of public charity and nearly 80 years old, getting a pension through the Pension Office. The son, April 22, 1867, married a wife. This wife within a year from soldier's death married again. This husband dying, she has again married and has a husband living. There were no children born to the soldier; no one now drawing a pension on his account are eligible or entitled thereto.

In view of all the foregoing facts, the long and faithful service of the soldier, his severe wounds, the beneficiary being 80 years old and supported by public charity, the committee recommend the passage of the bill.

O

51st Congress, 1st Session. | SENATE. | Report No. 1647.

IN THE SENATE OF THE UNITED STATES.

August 27, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5628.]

The Committee on Pensions, to whom was referred the bill (H. R. 5628) granting an increase of pension to David Shively, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5628) to increase the pension of David Shively, report back the same and recommend that it do pass.

David Shively was a private in the One hundred and fourteenth Regiment Pennsylvania Volunteers in the late war, and was severely wounded at Gettysburgh, having lost one eye and the use of his right arm, which is now a useless member dangling by his side. After the close of the war he was appointed keeper of the Federal cemetery at Raleigh, N. C., which position he held till his failing health, caused by the wound in his head received at Gettysburgh, forced him to resign.

Then he attempted evangelical work, but this was too much for him and he was forced to abandon it. His mind is now much impaired and he is an inmate of an infirmary in Philadelphia, Pa., totally unable to do anything for the support of his family, who now reside in Raleigh, N. C. His mental condition is caused by the wound received at Gettysburgh, the ball still remaining in the head. The relief asked for ought to be granted.

O

51st Congress, 1st Session. | SENATE. | Report No. 1648.

IN THE SENATE OF THE UNITED STATES.

August 27, 1890.—Ordered to be printed.

Mr. Manderson, from the Committee on Printing, submitted the following

REPORT:

[To accompany S. Res. 102, joint resolution to print 50,000 copies of the Sixth Annual Report of the Bureau of Animal Industry for the year 1889, of which 13,000 copies shall be for the use of the Senate, 27,000 copies for the use of the House, and 10,000 copies for the use of the Secretary of Agriculture.]

The Committee on Printing, to whom the above joint resolution was referred, having considered the same, make the following report:

It is the desire of the Secretary of Agriculture to get this important annual report out promptly, and to avoid, if possible, the vexatious and hurtful delays of the past. He, therefore, proposes to issue the report for 1890 immediately, and recommends that the reports for 1889 and 1890 be printed at the same time, and be bound together in the same volume, as in the case of the reports for 1887 and 1888. The two reports will make a volume of about 500 octavo pages, including the index and plates, and will be of convenient size; really a better size, in thickness, than if bound separately. The number of copies provided for in the resolution and the distribution thereof are the same as for 1887 and 1888.

The committee recommend the following amendments to the bill:

In line 3, after the word "sixth," insert the words "and seventh."

In line 4, after "annual," insert "reports," for "report."

In line 4, after the word "the," insert "years," for "year."

In line 5, after the words "eighty-nine," insert the words "and eighteen hundred and ninety."

In line 6, after the word "copies," insert "of each."

In line 7, after "copies," insert "of each."

In line 8, after "copies," insert "of each."

In line 4, section 2, after "said," insert "reports," for "report."

After the word "reports," in line 4, section 2, add the following words: "the two reports to be bound in one volume," making the resolution read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there be printed fifty thousand copies of the Sixth and Seventh Annual Reports of the Bureau of Animal Industry for the years eighteen hundred and eighty-nine and eighteen hundred and ninety, of which thirteen thousand copies of each shall be for the use of the members of the Senate, twenty-seven thousand copies of each for the use of members of the House of Representatives, and ten thousand copies of each for the use of the Secretary of Agriculture.

Sec. 2. That the sum of fifty thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to defray the cost of printing and binding said reports, the two reports to be bound in one volume.

Thus amended the committee recommend that the bill do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1649.

IN THE SENATE OF THE UNITED STATES.

August 27, 1890.—Ordered to be printed.

Mr. Manderson, from the Committee on Printing, submitted the following

REPORT:

[To accompany S. Res. 109. Joint resolution providing for the printing of 400,000 copies of the Agricultural Report for 1890, of which 70,000 copies shall be for the use of the Senate, 300,000 copies for the use of the House, and 30,000 copies for distribution by the Secretary of Agriculture.]

The Committee on Printing, to whom was referred the above joint resolution, having considered the same, report it back with the recommendation that it do pass.

The number of copies provided for, and the manner of distribution, correspond with the provisions of the orders to print this report in former years.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1650.

IN THE SENATE OF THE UNITED STATES.

AUGUST 27, 1890.—Ordered to be printed.

Mr. HAWLEY, from the Committee on Printing, submitted the following

REPORT:

[To accompany S. concurrent resolution authorizing the printing and binding of 13,000 extra copies of the reports of the Commissioners of the United States to the Paris Exposition of 1889, of which 3,000 copies shall be for the use of the Senate, 6,000 copies for the use of the House of Representatives, and 4,000 copies for the use of the Secretary of State, of which latter copies 600 copies shall be distributed among the authors of the reports printed.]

The Committee on Printing, to whom was referred the above concurrent resolution, having considered the same, make the following report:

By a note of April 6, 1887, the republic of France through its minister plenipotentiary at this capital, invited the Government of the United States to take part in an exposition of works of art and the products of manufactures and agriculture of all nations, to be held at Paris, commencing May 5 and closing October 31, 1889.

Congress, by joint resolution approved May 10, 1888, authorized the acceptance by this Government of the invitation extended. It also appropriated the sum of $250,000 to defray the necessary expenses of the participation of this Government in the exposition, including the proper installation of the exhibition and the expenditures of the commissioner-general made under the direction of the Secretary of State. Section 2 of the joint resolution provided for the appointment by the President, by and with the advice and consent of the Senate, of a commissioner-general and subordinate officers to represent the United States in the proposed exposition, and fixed the allowance accorded to each. Section 4 made it the duty of the Secretary of State to transmit to Congress a detailed statement of expenditures which may have been incurred under the provisions of this resolution, together with all reports called for under section 2 of the same, which reports shall be prepared and arranged with a view to concise statement and convenient reference.

The copy for volume 1 was transmitted to the House of Representatives June 16, and was ordered printed by that body as a public document. It is now in the hands of the Public Printer, and will be printed as soon as possible. The contents of volume 1 covers a large number of subjects of peculiar interest at this time, especially to those who have in immediate charge the preliminaries of the United States Exposition to be held at Chicago in 1893; and in consequence of this fact the copy for volume 1 of the reports has been got ready at this early date. The plates for volume 1 are all ready for the printer. The cost of making the plates will be paid by the Secretary of State out of the appropriation of $250,000, above referred to. Volume 1 will make a book, octavo in form, without marginal references, such as were used in the reports of the exposition of 1878, of about 500 pages. Volumes

2, 3, 4, and 5 will contain, possibly, 600 pages each, including the illustrations.

The contents of volume 2 are as follows: The Fine Arts, illustrated, by General Rush C. Hawkins; Education, by Prof. A. J. Stace; Technical Education, by Prof. C. Wellman Parks; Optical Instruments, illustrated, by Charles S. Hastings, esq.; and Instruments of Precision, illustrated, by A. L. Rotch, esq.

The contents of volume 3 are as follows: Mechanical Industries, illustrated, by Prof. Wm. H. Chandler; Mining and Metallurgy, illustrated, by Henry M. Howe, esq.; Flax and Hemp Industry, illustrated, by Charles R. Dodge, esq.; Jewelry, illustrated, by George F. Kunz; Apparel and Accessories, by A. Van Bergen; Chemical and Pharmaceutical Products, illustrated, by Prof. S. B. Newbury; Hospitals, by Prof. W. H. Chandler; and Cremation, by Prof. W. H. Chandler.

The contents of volume 4 are as follows: Review of Group VI, Metallurgy, illustrated, by Prof. C. B. Richards; Mechanical Appliances, illustrated, by William Watson, esq.; Machine Tools, illustrated, by John H. Barr, esq.; Knitting and Embroidery Machines, illustrated, by I. M. Merrow, esq.; Railway Plant, illustrated, by Lewis M. Hampt, esq.; Electrical Appliances, illustrated, by Carl Herring, esq; War Appliances, illustrated, by Capt. D. A. Lyle, U. S. A.; Life Saving Appliances, illustrated, by Capt. D. A. Lyle, U. S. A.

The contents of volume 5 are as follows: The United States Agricultural Exhibit, illustrated, by Prof. C. V. Riley; Textiles, by C. R. Dodge, esq.; Food Products, illustrated, by Howard C. Clark, esq.; Horticulture, illustrated, by David King, esq.; and special reports on the United States' display of food and food industries, illustrated, by special agents of the Department of Agriculture.

The report of the exposition of 1878 comprised three thousand pages, large octavo, with marginal references, and quite a number of illustrations. The marginal references added about one-fifth to the size of the reports. The cost of the printing and binding and the making of the illustrations of that report was about $81,000. It is proposed to print the reports of the exposition of 1889 in the same faced type—long primer—and to bind in the same style, but without the marginal referenences. The illustrations used in the latter reports will be twice as many as were used in the reports of the exposition of 1878. The cost of the printing and binding the reports of the expositions of 1889 will be $61,803 for the extra copies. The expense of the plates will be met by the Secretary of State.

The number of copies provided for is the same and the distribution the same as provided for in the resolution to print the reports of the exposition of 1878.

The Secretary of State in a written communication of date June 14, 1890, says:

> It is believed that the reports will prove of unusual interest, and that the number of copies requested may be circulated to great advantage, both in this country and in Europe.

The committee reports the resolution back with the recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1651.

IN THE SENATE OF THE UNITED STATES.

August 27, 1890.—Ordered to be printed.

Mr. Manderson, from the Committee on Printing, submitted the following

REPORT:

[To accompany Senate resolution authorizing the printing of 2,000 additional copies of H. R. 3316, an act to establish a uniform system of bankruptcy throughout the United States, in pamphlet form, to be placed in the document-room of the Senate.]

The Committee on Printing, to whom was referred the above resolution, report it back with the recommendation that it do pass. The cost of the printing will be $133.60.

51st Congress, 1st Session. | SENATE. | Report No. 1652.

IN THE SENATE OF THE UNITED STATES.

August 27, 1890.—Ordered to be printed.

Mr. Manderson, from the Committee on Printing, submitted the following

REPORT:

[To accompany H. R. concurrent resolution authorizing the printing of 11,000 extra copies of the report of the Commissioner of Fish and Fisheries for the year 1888, 3,000 copies for the use of the Senate, 6,000 copies for the use of the House, and 2,000 copies for the use of the Commissioner of Fish and Fisheries.]

The Committee on Printing, to whom was referred the above concurrent resolution, having considered the same, report it back with the recommendation that it do pass.

In July last a similar resolution passed the Senate, the only difference being that the House resolution provides for 1,500 copies less than the Senate resolution. It cuts down the number asked for by the Senate resolution for the Commissioner of Fish and Fisheries 500 copies, and makes no provision for copies to be sold by the Public Printer.

The cost of the printing and binding will be, as per the estimates furnished by the Public Printer, $9,292. The number of copies provided for in the House resolution is about the same as heretofore printed.

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1653.

IN THE SENATE OF THE UNITED STATES.

AUGUST 27, 1890.—Ordered to be printed.

Mr. MANDERSON, from the Committee on Printing, submitted the following

REPORT:

[To accompany Senate concurrent resolution authorizing the printing of 4,500 extra copies of the Report of the American Historical Society for the year 1889.]

The Committee on Printing, to whom was referred the above concurrent resolution, having had the same under consideration, make the following report:

The American Historical Society was incorporated by an act of Congress, approved January 4, 1889. This is the first report submitted by the society, and will make about 400 octavo pages. The subjects treated of in the report are: (1) General report of the proceedings of the annual meeting held in Washington, December 28 to 31, 1889; (2) inaugural address of President Charles Kendall Adams on "Recent Historical Work in the Colleges and Universities of Europe and America;" (3) "The Spirit of Historical Research," by James Schouler, of Boston; (4) "The Origin of the National Scientific and Educational Institutions of the United States," by Dr. G. Brown Goode, assistant secretary of the Smithsonian Institution, etc.; (5) bibliography of the published works of the members of the American Historical Association, by Paul Leicester Ford, of Brooklyn, N. Y. The cost of printing and binding will be $1,361.25.

The committee report the concurrent resolution back with the recommendation that it do pass.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1654.

IN THE SENATE OF THE UNITED STATES.

AUGUST 28, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9518.]

The Committee on Pensions, to whom was referred the bill (H. R. 9518) for the relief of Margaret Hetzel, have examined the same and report:

The purpose of this bill is simply to extend to the widow of an officer of the Army the privilege granted to widows of naval officers by the act approved June 9, 1880, entitled, "An act to restore pensions in certain cases." The facts are tersely set forth in the appended House report, and the bill is reported favorably without amendment, and its passage recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 9518) for the purpose of construing the act entitled "An act to restore pensions in certain cases," approved June 9, 1880, having had the same under consideration, submit the following report:

The committee believe that the act of June 9, 1880, was intended to include the widows of officers of the Army as well as those of the Navy.

Mrs. Hetzel is the widow of Colonel Abner Rivière Hetzel, who graduated at West Point June 30, 1827; was second lieutenant of infantry July 1, 1827; was assistant quartermaster March 24, 1835, to July 7, 1838; was first lieutenant June 28, 1836; was captain of the staff, assistant quartermaster, July 7, 1838; was captain Second Infantry November 27, 1839; was quartermaster-general on General Scott's staff in his campaign against Mexico in 1846 and 1847, and died July 20, 1847.

The bill is returned with a favorable recommendation.

O

51st Congress, 1st Session. | SENATE. | Report No. 1655.

IN THE SENATE OF THE UNITED STATES.

August 28, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 7815.]

The Committee on Pensions, to whom was referred the bill (H. R. 7815) granting a pension to Maryett Vaille, have examined the same and report:

The facts in this case are fully set forth in the appended House report, and the bill is returned to the Senate with a favorable recommendation.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7815) granting a pension to Maryett Vaille, submit the following report:

That Maryett Vaille is widow of Virgil L. Vaille, Company I, Tenth Massachusetts Volunteers, who enlisted April 28, 1861. The widow was married to soldier in 1858. They had two children, one in 1859 and one in 1861. It is alleged he died about August 18, 1863. The Adjutant-General's office records show him present on the rolls of his company from muster to August 31, 1862. September and October, 1862, absent sick, in Harewood Hospital, Washington, D. C. So reported till February 28, 1863, March, and April, 1863; discharged from Harewood Hospital; ordered to regiment; never reported. May and June, 1863, same report; July and August, 1863; deserted August 1, 1863; dropped from subsequent rolls to muster-out roll of company, dated July 1, 1864, reports him deserted January, 1863. No individual or detached muster-out roll on file.

Hospital record shows: Admitted to Harewood Hospital October 12, 1862, and is reported present to February 28, 1863. Name dropped. Was admitted to same hospital September 7, 1862, and is reported discharged March 24, 1863.

His family, wife, and friends are all convinced he died about that time. A letter on file, written by one Frank Prescott, says "all that is known and can be ascertained is that he and his comrades started from the hospital to join their regiment, and on the way it is supposed Vaille, from sickness and fatigue, fell back and was captured, or killed, or died. There is no record or knowledge of him since. I obtained an affidavit from his captain to this effect, and sent it to you something over a year since."

His widow waited until September 5, 1879, before filing her claim, which was rejected for want of proof of death. She has had a hard struggle for all these years, maintaining herself and family by her own labor, and is now almost beyond work.

Your committee believe there is evidence enough on which to presume death in service, besides the legal presumption of death from lapse of time. The soldier had father, mother, brothers and sisters and a wife, and up to the time of his supposed death their relations were friendly and affectionate, thus in a measure overcoming any suspicion of voluntary absence or desertion.

Your committee recommend the passage of this bill granting this poor widow a pension.

O

51st Congress, 1st Session. | SENATE. | Report No. 1656.

IN THE SENATE OF THE UNITED STATES.

August 28, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 3232.]

The Committee on Pensions, to whom was referred the bill (S. 3232) granting a pension to Abbie R. Reddington, have examined the same and report:

The claimant is a sister of Luke F. Robinson, who served as a sailor in the United States Navy for a period of about eight years, including that of the civil war. He died from disease contracted in the service, and his mother, Mrs. Hannah P. Robinson, drew a pension as dependent mother of the sailor until her death. The affidavits hereto attached show that Mrs. Reddington's husband died before the civil war; that she took care of the sailor's mother, and that they were both dependent upon the sailor for their support. Mrs. Reddington has been and is now dependent upon public charity.

In view of the claimant's statement and the evidence of dependency given in the accompanying affidavits your committee report the bill favorably with amendments, and, as amended, recommend its passage.

Claremont, N. H., *February* 6, 1890.

Hon. Henry W. Blair:

Respected Sir: I know you have many calls and invitations to present different private bills in relation to a pension. There is now residing in this place an aged widow, over seventy years. Her brother, Luke F. Robinson, was in the service of his country thirteen years in the Navy, and all through our late war, and died at his post on board United States steam war-ship *Canandaigua*, December 26, 1865. His mother drew a dependent mother's pension, certificate No. 846, but she died some years since, leaving her daughter, Mrs. Reddington, all alone. Mrs. Abbie Reddington is now destitute and has reached that age where she can no longer earn her support. She cared for her aged mother as long as she lived, and now, being destitute, she thinks in view of her brother's long service for the Republic that she is justified in respectfully asking that Congress would grant her a pension for the little time she may continue to live. If this is not granted, the only sister of this patriot sailor must spend the remnant of her days in the county poor-house.

She appoints Baron S. Noyes, of Claremont, N. H., her agent, to present this claim.

Abbie R. Reddington.

Claremont, N. H., *February* 28, 1890.

The within facts as set forth by claimant are in our belief true.

Isaac H. Long,
Marshall S. Rossiter,
Henry C. Sanders,
Selectmen of Claremont.

AFFIDAVIT OF SAMUEL G. JARVIS, M. D.

Be it remembered that on the 7th day of August, 1890, before me, a notary public for the county of Sullivan, and State of New Hampshire, personally came Samuel G. Jarvis, M. D., to me well known, and whom I certify to be a respectable physician, aged seventy-three years, who says in the matter of claim for pension of Abbie R. Reddington, surviving sister of Luke Robinson, late of the United States Navy, that he was the family physician of Mrs. Hannah P. Robinson, mother of said Abbie and Luke, who was then suffering chronic "gastritis." I also attended her in 1863 or 1864, I can not state which, while she had small-pox, at Claremont, in said Sullivan County. I recollect that I received no fee for attendance at either time on account of the poor woman then being dependent upon her said son, Luke Robinson, the sailor, for her own support and that of her daughter, said Abbie, who was in constant attendance upon her mother.

I knew of the family then and since by general report and occasional interviews, and feel certain that if said Hannah and Abbie had not had support from said Luke, they would both have been a town or county expense more than they were; as it was they had some assistance from town authorities. I have no interest in said Abbie's claim for pension.

SAMUEL G. JARVIS, M. D.

Subscribed and sworn to, after hearing it read over, before me,

[SEAL.] EDWARD D. BAKER,
Notary Public.

AFFIDAVIT OF HELEN A. FITCH.

I, Mrs. Charles H. Fitch, of Windsor, in the county of Windsor, and State of Vermont, depose and say, that I am a niece of Mrs. Abbie R. Reddington, of Claremont, New Hampshire. I have known her, her brother, Luke Robinson, and their mother, Hannah P. Robinson, since my early childhood. I am now forty five years old. Hannah Robinson's husband, Augustus Robinson, died some years before the commencement of the rebellion in 1861. I am certain that for many years before Luke's death he assisted in the support of his mother and his sister, said Abbie R. Reddington (she now is). When Luke enlisted in the Navy or soon after I know and remember that he had an allotment or assignment of a part of his pay to his mother, or mother and sister, who were both poor and had no other income. I think the money or draft for the money came direct from Washington, D. C., and was used in payment for rent of tenement and food and clothing for his mother, said Hannah, and his sister, said Abbie. I heard from Luke himself when he last visited Claremont, which was not very long before his death at sea, that he was furnishing or contributing in the support of his mother and sister but can not give the exact language he used.

I have no personal interest in Abbie's claim for pension. She is supported now by charity, and needs all she can get.

MRS. HELEN A. FITCH.

STATE OF NEW HAMPSHIRE, *Sullivan County, ss:*

August 1, 1890. Then I read over and explained to the affiant, Helen A. Fitch, the written statement before execution, whereupon she signed the same, and made solemn oath that the same was true, according to her best knowledge and belief. She is respectable and entitled to credit.

Before me,

EDWARD D. BAKER,
Notary Public.

[SEAL.]

AFFIDAVIT OF ALVIN CHILD.

I, Alvin Child, of Claremont, in the county of Sullivan and State of New Hampshire, depose and say that I have known Abbie R. Robinson, now Abbie R. Reddington, her mother, and brother Luke Robinson. I knew them as early as thirty odd years ago. Abbie and her mother lived in my house, and in another part of the house in which my wife and I then lived. They lived there, I think, six or seven years. The mother was then old and hardly able to do any house or other work. Abbie did the housework mostly, and worked in the cotton mill and other places when she felt obliged to get along. Abbie had a brother, Luke Robinson, who was in the United States Navy. I saw him and got quite well acquainted with him while at home with

his mother and said sister, not a very long while before he returned to the sea voyage from which he never came back. I know from him and from what I saw and heard from his mother and Abbie that Luke sent home money to his sister and mother for assistance to them for a living. He sent them money quite often when in this country, but when he was out at sea I did not hear of it so often. The rent at times was over-due, and payment postponed for the brother to return; and after his return, and after he sent them money as he did I received my pay. I knew of his sending Abbie money several times. Once as I received it he sent her $30, a part of which Abbie paid me on the rent over-due. They were very poor and the rent low. I think only $2.50 per month. They lived "short." If Luke had not helped support them Abbie and her mother must have been obliged to get assistance from the town. The old lady had the small-pox while they lived in my house, and the town then paid a portion of their expenses, and I think she had other assistance from the town both before and after Luke's death. Abbie is now assisted; nearly everything she lives on is furnished by the town of Claremont, gratuitously, as I am informed and believe.

ALVIN CHILD.

STATE OF NEW HAMPSHIRE, *Sullivan County, ss*:

Be it known that on the seventh day of August, 1890, personally came before me, a notary public in and for said county of Sullivan, Alvin Child, whom I certify to be entitled to credit and respectable, and to whom I read over and explained the above statement, whereupon he signed and made oath that the same was true. I have no interest in any claim for pension.

Witness my hand and official seal.

EDWARD D. BAKER,
Notary Public.

[SEAL.]

51st Congress, 1st Session. | SENATE. | Report No. 1657.

IN THE SENATE OF THE UNITED STATES.

August 28, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10245.]

The Committee on Pensions, to whom was referred the bill (H. R. 10245) granting a pension to Hettie McConnell, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10245) granting a pension to Hettie McConnell, submit the following report:

The husband of claimant served continuously from October, 1861, to January, 1866, as captain, and was promoted from time to time for meritorious conduct and bravery until he came out of the service as colonel of the Seventy-first Ohio Volunteer Regiment, and was brevetted brigadier-general.

There was no more faithful and conscientious officer in the service. He went into the Army a sound and strong man mentally and physically. A minister of the gospel by profession. The evidence of the most reputable citizens of his acquaintance go to prove that he came out of the service a mental wreck, and ever after suffered from mental disability, until finally, in a fit of despondency, he committed suicide.

The widow is in destitute circumstances and a most excellent lady, who has had a great deal of trouble and lost all her property in consequence of her husband's misfortune. Petition signed by many of the best citizens of her home; affidavits of ministers of the gospel are numerous and are filed in this case.

Your committee make the following petition a part of their report:

To the Congress of the United States and the Committee on Invalid Pensions:

The undersigned say that they were acquainted with the late Brig. Gen. H. K. McConnell, who was colonel of Seventy-first Ohio Volunteer Infantry; that each of us knew him for years prior to the war and for many years after his return from the Army.

That prior to the war he was a cheerful, hopeful, ambitious man, bright and cheery in disposition; that on his return from the Army and ever since, until his death, he was quiet, gloomy, and given to melancholy; brooded over he knew not what; was not hopeful, cheery, and bright. Attempted to take his life on several occasions, and was prevented from so doing by persuasion of his friends; was a changed man in all mental and social respects; seemed dull at times; the fire, daring, and courage of his younger days were all gone. We know nothing of the causes. We only speak of the altered condition of the man after his return from the Army.

G. W. Garoutte,
Pastor Christian Tabernacle, Greenville, Darke County, Ohio.

July 7, 1890.

Many others are on file, but your committee deem this evidence sufficient. The claim could not be allowed under any general law, and we deem this one of the cases especially meritorious for the intervention of Congress, by special act, and recommend the passage of the bill.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1658.

IN THE SENATE OF THE UNITED STATES.

AUGUST 28, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 7422.]

The Committee on Pensions, to whom was referred the bill (H. R. 7422) granting a pension to Kate L. Townes, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7422) granting a pension to Mrs. Kate Lane Townes, widow of Col. Robert R. Townes, submit the following report:

Mrs. Kate Lane Townes is the widow of Col. Robert R. Townes, late colonel and assistant adjutant-general of United States volunteers. Colonel Townes served during the late war with great distinction and was a member of the staff of General John A. Logan, and was adjutant-general and chief of staff of Fifteenth Army Corps.

He died recently, leaving a widow in very indigent circumstances. His arduous service fastened upon him a disease which largely incapacitated him for business during the remainder of his life.

An abstract of the military record of Colonel Townes, furnished by the Adjutant-General of the United States Army, is hereto appended:

Abstract of the military record of Robert R. Townes, late colonel and assistant adjutant-general of United States volunteers, compiled from the records of this office.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, March 22, 1890.

He served as a private of Company I, Thirty-first Illinois Volunteers, from August 15, 1861, to March 1, 1862, and as first lieutenant of that regiment until he accepted his appointment as captain and assistant adjutant-general of volunteers.

He was appointed captain and assistant adjutant-general of volunteers to rank from May 1, 1862, and major and assistant adjutant-general of volunteers to rank from April 23, 1863.

He resigned February 28, 1865.

He served with the rank of lieutenant-colonel and assistant adjutant-general, under the act of July 17, 1862, from June 29, 1864, to the date of his resignation.

He served as assistant adjutant-general of the First Division, Reserve Corps, Army of the Tennessee, and subsequently of the district of Jackson, Department of Tennessee, from June, 1862, to January 11, 1863; of the Third Division, Seventeenth Corps, to November, 1863, and of the Fifteenth Corps from December 17, 1863, to January 29, 1865, when relieved and on awaiting orders to date of resignation.

J. C. KELTON,
Adjutant-General.

The committee, believing this to be a more than ordinarily meritorious case, report back the bill (H. R. 7422) and do recommend its passage, amended, however, by striking out all of line 8 and insert therein instead the words "subject to the provisions and limitations of the pension laws."

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1659.

IN THE SENATE OF THE UNITED STATES.

AUGUST 28, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10036.]

The Committee on Pensions, to whom was referred the bill (H. R. 10036) granting an increase of pension to James B. Reed, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives hereto attached is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 10036) granting an increase of pension to James B. Reed, have considered the same and report as follows:

This soldier was a private in Company D, Second Missouri Mounted Volunteers, and served from July 31, 1846, to September 17, 1847, in the war with Mexico. He is now in receipt of a pension, at $8 per month, on account of said service.

The claimant is now about sixty-three years of age and in a helpless condition from chronic nervous rheumatism affecting the spine, hips, and lower extremities. He requires the constant attention of a nurse and he is dependent upon others for a support. His wife is old and can do but little towards gaining a livelihood.

The facts are substantiated by the testimony of Dr. A. F. Sneed, E. J. Wallace, and other reputable citizens of Boone County, Mo. It is also shown that the claimant is an honorable and worthy man.

In view of the facts stated above your committee recommend that the bill do pass, amended, however, as follows: By striking out the words "twenty-four" in line six and substituting in lieu thereof the word "twenty," so as to allow a pension at $20 per month.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1660.

IN THE SENATE OF THE UNITED STATES.

AUGUST 28, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 7964.]

The Committee on Pensions, to whom was referred the bill (H. R. 7964) granting a pension to Margaret Pratt, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7694) granting a pension to Margaret Pratt, have considered the same and submit the following report made to the Fiftieth Congress:

"The claimant herein was the mother of Eugene A. Pratt, who enlisted August 4, 1862, as a private in Company H, Eighty-seventh Indiana Volunteers, and was instantly killed at the battle of Chickamauga, September 19, 1863.

"The husband of claimant was a helpless invalid for twenty-two years, and died of pulmonary consumption in 1877. As shown by the papers on file, the soldier was almost the sole support of the family prior to and at the time of enlistment. When he enlisted in the Army he gave the claimant and her husband (father of the soldier) his personal property for their support, and up to the time of his untimely death sent to them about all the money he received for his services, and it is stated that the day before his death he sent a package of money to them, the receipt of which is shown.

"Some time after the death of claimant's husband, in 1877, she remarried with one Hunsley, whose treatment of her was so cruel that she applied for and was granted a divorce, and her name changed to Pratt, as formerly.

"The claimant is now in almost an entirely helpless condition from hernia, general debility, and old age, and her entire income will not exceed $50 per year

"In June, 1887, she made application for pension as the dependent mother of the deceased soldier, and the same was rejected on the ground that, having remarried since the death of the soldier, and the claim not being filed until June 18, 1887, there was no period under the law for which pension could be paid.

"No pension is being paid to any one on account of the services and death of the soldier.

"After carefully considering all the facts of this case the committee believe the relief asked for by claimant ought to be granted, and we therefore submit a favorable report, and recommend the passage of the bill."

51st Congress, 1st Session. | SENATE. | Report No. 1661.

IN THE SENATE OF THE UNITED STATES.

August 28, 1890.—Ordered to be printed.

Mr. Dawes, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany S. 4354.]

The Committee on Indian Affairs, to whom was referred the bills S. 2321, S. 2322, and S. 4005, submit the following report:

The substitute bill here submitted provides for the reference to the Court of Claims for adjudication of the subject matter embraced in the original bills.

The history and basis of these claims, as set out and provided for in sections 1, 2, and 3 of the bill, are as follows:

Prior to the year 1866 the Cherokee Nation of Indians claimed and possessed a tract of country in the Indian Territory bounded on the north by the State of Kansas, on the east by the States of Missouri and Arkansas, and on the south by the Choctaw, Creek, and Seminole Nations of Indians.

On the 19th day of July, 1866, the Cherokee Nation made and entered into a treaty with the United States, and among other things the contracting parties stipulated and provided in article 15: (1) That the United States may settle civilized Indians, friendly with the Cherokees and adjacent tribes, on unoccupied lands east of the ninety-sixth degree west longitude in the Cherokee Nation; (2) on such terms as may be agreed upon by the tribes and the Cherokees and approved by the President of the United States, with the provision that the tribes settling should abandon their tribal organizations and pay into the Cherokee national fund a sum of money which shall sustain the same proportion to the then existing national fund that the number of Indians sustain to the whole number of Cherokees then residing in the Cherokee country; and on compliance the Indians settling shall be incorporated into and ever after remain a part of the Cherokee Nation, "equal in every respect with native citizens."

Article 16 of this treaty provides that the United States may settle friendly Indians in any part of the Cherokee country west of the ninety-sixth degree west longitude, to be taken in compact form and conveyed in fee-simple to each of the tribes.

Article 9 of this treaty provides that all freedmen who were liberated by voluntary act of former owners or by law, as well as free colored persons who were in the country at the commencement of the rebellion, and are now residents in the Cherokee Nation or who may return in six months, and their descendants, shall have all the rights of native Cherokees.

On the 7th day of June, 1869, the Shawnees made an agreement with the Cherokee Nation, under the authority of the aforesaid fifteenth article, yielding and paying to the Cherokee Nation $5,000 of their perpetual annuities, and $50,000 in cash. For this payment of money the Cherokees agreed to receive the Shawnees into the Cherokee Nation on the unoccupied lands east of the ninety-sixth degree west longitude, in the Cherokee Nation, Indian Territory, and that they shall be incorporated into and ever after remain a part of the Cherokee Nation on equal terms in every respect, and with all the privileges and immunities of a native citizen of the Cherokee Nation. "Stipulating that the Shawnees who shall elect to avail themselves of the provisions of this agreement shall register their names and permanently locate in the Cherokee country within two years from the date of this agreement; otherwise they would forfeit all rights under this agreement."

This agreement was approved by the President on the 9th day of June, 1869, in the manner as is authorized by the aforesaid fifteenth article. And, to wit, 900 Shawnees complied with the provisions and conditions of this agreement, moved and settled in the Cherokee Nation.

On the 8th day of April, 1867, the Delaware Indians made and concluded an agreement with the Cherokee Nation, under the aforesaid article 15 of the treaty of 1866. In said agreement it is provided (1) that the Cherokee Nation will sell to the Delawares a quantity of lands east of the ninety-sixth degree of west longitude in the Cherokee Nation, in aggregate equal to 160 acres for each individual Delaware who had been enrolled February 18, 1867, who should elect to remove to the "Indian Country." Names could be added by the Delaware council within a month after the signing of the agreement. (2) The Delawares agree to pay to the Cherokees for the land $1 per acre; upon compliance with the stipulations and conditions of the agreement, the Delawares were to be incorporated into the Cherokee Nation, with the same rights and immunities and the same participation in the national funds as native Cherokees. And children thereafter born of such Delawares shall be in all respects regarded as native Cherokees.

The agreement was ratified by the national committee June 15, 1867; and, to wit, fourteen hundred Delawares moved into the Cherokee Nation under the authority of this agreement.

Referring to the freedmen claiming rights under the ninth article of the said treaty, it was ascertained that the census and roll recently taken, under the recent act of Congress, shows that there are over five thousand persons.

From the time of making and entering into the aforesaid articles of the treaty and the agreements, up to May 19, 1883, the Shawnees, Delawares, and freedmen were accepted and recognized by the Cherokee Nation as Cherokee citizens, with all the rights, benefits, and immunities of native Cherokees, as provided and obligated by the aforesaid treaty and agreements.

About this time the Cherokee Nation received from the Government $300,000, appropriated by Congress out of funds due under appraisement of Cherokee lands west of the ninety-sixth degree west longitude. This money the Cherokee legislative council directed by an act to be paid out per capita to Cherokees by blood only in the Cherokee Nation.

On July 5, 1883, the Cherokee Nation leased, rented, or granted to an association of persons, who are United States citizens, a permit to occupy and graze all of the vacant land belonging to the Cherokee Nation west of the ninety-sixth degree west longitude, or west of the Arkansas River in the Cherokee Nation. This lease was made to run for five years, at a rental of $100,000 per year. The act of the Cherokee national council authorizing this lease provided and promised that when $300,000 was paid into the Cherokee national treasury the amount should be paid out per capita as the council should direct. In May, 1886, this amount was paid into the Cherokee national treasury, and the Cherokee national council passed an act requiring the Cherokee national treasurer to pay the said money out per capita to Cherokee citizens by blood and descent only in the Cherokee Nation. This action deprived the Shawnees, Delawares, and freedmen out of their share and portion of this money. This payment was $15.50 per capita.

At the same session of this council an act was passed and approved construing the rights of the Shawnees, Delawares, and freedmen. By this act the intention of the Cherokee Nation is clearly shown that the Cherokee Nation will not allow the Shawnees, Delawares, and freedmen to ever participate in the distribution of or the allotment of their lands west of the Arkansas River in the Cherokee Nation.

The justification and defense the Cherokee Nation set up for their acts and these violations are as follows: (1) Because the amount paid by the Shawnees, Delawares, and freedmen is not adequate or equivalent under the provisions of the treaty; (2) because the lands west of the ninety-sixth degree west longitude, belonging to the Cherokee Nation, was set off, appropriated, and diverted for a specific purpose, before these agreements were entered into.

This position of the condition of these people is by the committee regarded as serious and calculated to keep up and open contentions and hinder and obstruct the progress of these people; it is deemed best to provide a plan to settle the status of these people in the country, and their claims to their rights, by sending the matters of dispute to the Court of Claims, and this plan is agreed to by the Cherokee delegates as well as the Shawnees.

The original bill provided for an appropriation to pay the Shawnees for the defaulted payment of 1886, out of Cherokee funds, as was provided in the act of October 19, 1888, but the committee find that the money paid out to the Cherokee citizens at the time was money derived from the leasing of the lands west of the Arkansas River, for grazing purposes, and that the Departments and Congress do not recognize the right of the Cherokee Nation to lease the said lands, and the lessees of these lands have been ordered to vacate and remove from and off the lands by the 1st of October, 1890, therefore the committee conclude it proper and justice to all to send the whole question to the courts for a proper and a final decision.

Referring to the subject-matter, and the provision of section 4, of this substituted bill, the committee find as follows: That in November,

1863, William P. Dole was Commissioner of Indian Affairs, and caused to be placed to the credit of H. B. Branch, Superintendent of Indian Affairs, the sum of $89,000 for payment per capita to the Shawnee tribe of Indians.

Superintendent Branch was instructed by Commissioner Dole to make a careful examination as to the number of Shawnee orphans, and retain in his hands the amount found to be due to them, allowing them to share equally with the other Indians in the per capita payment.

He was also instructed to make a thorough investigation respecting the disposition that had been made of the money that belonged to the Shawnee orphans, and paid to the guardians or the Shawnee council, to be applied for the benefit of the orphans, including the payment made on the 29th of October, 1860, to certain guardians under bonds, and the payments made previously, and if he should find that any of the money rightfully belonging to the orphans had been squandered or misapplied, to retain from the remittance such additional sums as he should find to be withheld or misapplied, and make payment to the balance of the tribe.

On the 29th of January, 1863, Superintendent Branch reported that he made payment on the 20th, 21st, and 22d of January, 1863, to these Shawnees; that he ascertained the number of orphans to be thirty-eight, and retained out of the annuity $70 per head for such, making $2,660 withheld. He also reported that, owing to the default of Shawnee guardians, he withheld from the Shawnee tribal fund the further sum of $7,846.39, making a sum total of $10,506.39, which has been held from the Shawnee tribal fund since January 23, 1863.

The committee further find that Superintendent Branch failed to settle his accounts with the United States Government, and defaulted for a large amount, and embezzled the aforesaid sum, $10,506.39, which he withheld out of the Shawnee tribal fund on the 22d of January, 1863.

The committee further find that this tribal fund, out of which this payment was made, and Branch embezzled, the said amount, under the provisions of the seventh article of the treaty made with the Shawnees and the United States, 1832, and article 3 of their treaty of May 10, 1854, the United States stipulated and agreed to pay to these Shawnees 5 per cent. per annum on this annuity fund, and that the obligation is not released or discharged by the embezzlement of ex-Superintendent Branch.

The committee further find that in 1884, in the act making appropriation to supply deficiencies, etc., the sum of $9,437.62 was appropriated to be paid to the Shawnees on account of arrears of annuities due under the third article of the treaty of May 10, 1854, caused by the defalcation of Harrison B. Branch, Superintendent of Indian Affairs, in 1861 and 1862. The difference between the sum withheld and the sum appropriated, viz, $1,068.77, was recovered from the sureties on the bond of ex-Superintendent Branch. The committee further find that in June, 1885, the Commissioner of Indian Affairs addressed a letter to the Secretary of the Interior and asked to be instructed if it was the intention of the Department to construe the act of 1884, appropriating the said sum of $9,437.62, as to authorize the funds appropriated to be paid to the Shawnee orphans, without regard to the claim of the tribe as a whole. The Shawnees then, as now, claimed and contested that this was their tribal fund, and that the amount should be distributed to the tribe per capita. On the 3d day of July, 1885, the Secretary of the Interior returned the letter for the Commissioner's recommendation as to the right and proper course to be pursued in the

matter. On the 9th of July the Commissioner returned his office report of the 29th of June, with an opinion that justice demanded at least the sum of $2,870, part of said appropriation, should be paid directly to the parties to whom it belonged, *i e.*, the Shawnee orphans, and that he could not recommend that the whole amount of the appropriation be paid to the Shawnees as a tribe, which the strict construction of the letter of the act seemed to require. He also recommended that he be instructed to take no further action in the premises, looking to new and more definite legislation by Congress. On the 10th day of July, 1885, the Secretary of the Interior directed the Commissioner to take no further action in the premises under the existing law, and thus this matter has rested from that date to the present time.

The committee find that there is an unsettled question of law between the Shawnees and the Interior Department, (1) whether the Commissioner of Indian Affairs is authorized and empowered from his jurisdiction over Indian affairs to instruct a disbursing officer of the Department to divert Indian tribal funds appropriated by Congress to fulfill provisions and stipulations of treaties, and (2) as to the authority of the officers of the Government to withhold the payment of money appropriated by Congress, by a forced construction of the act, and refuse and neglect to disburse the funds as the act directs.

The committee are of the opinion that the proper and wise disposition of this subject is to refer these matters to the courts for a careful and a thorough investigation and final settlement. Therefore they submit a substitute for the bills S. 2321, S. 2322, and S. 4005.

And the committee recommend it do pass.

DEPARTMENT OF THE INTERIOR,
Washington, July 10, 1890.

SIR: I have the honor to acknowledge the receipt of your communication of 26th May last, inclosing S. 2321, a bill "to appropriate money to repay and refund the Shawnee tribal fund," and of yours of 26th ultimo, inclosing a letter from Johnson Blackfeather in relation to said bill.

In response thereto I transmit herewith copy of a communication of 9th instant from the Commissioner of Indian Affairs, and inclosures therein referred to, giving the history of the claim.

John Blackfeather's letter is herewith returned.

Very respectfully,

JOHN W. NOBLE,
Secretary.

The CHAIRMAN COMMITTEE ON INDIAN AFFAIRS,
United States Senate.

WASHINGTON, D. C., *July* 9, 1890.

SIR: I have the honor to acknowledge the receipt, by your reference, of a communication from the Hon. H. L. Dawes, United States Senator, inclosing S. 2321, "To appropriate money to repay and refund the Shawnee tribal fund, with the request for information and data regarding the same; also of a communication from Senator Dawes, dated June 26, inclosing letter from Johnson Blackfeather, chief of the Shawnees, relative to said bill. The bill enacts that the sum of $50,000, or so much thereof as may be necessary, be appropriated in order to re-imburse and pay to the Shawnee Indians the sum of $15,000, with 5 per cent. interest, from the 1st day of September, 1862, up to the date of the approval of the act, being amount retained by ex-Superintendent Branch, under the order of the Commissioner of Indian Affairs, from the Shawnee annuities, to make good certain annuities due the Shawnee orphans, but which were lost on account of the default of guardians appointed for them by the Shawnee council. The bill in many respects is defective, and the following history of the claim is submitted for the information of the Department and of the Congress:

In November, 1862, the Hon. William P. Dole, Commissioner of Indian Affairs, caused to be placed to the credit of H. B. Branch, Superintendent of Indian Affairs, the sum of $89,000 for payment per capita to the Shawnee tribe of Indians.

Superintendent Branch was instructed by him to make a careful examination as to the number of Shawnee orphans and to retain in his hands the amount found to be due them, allowing them to share equally in the payment with the other Indians. He was also instructed to make a thorough investigation respecting the disposition that had been made of the money belonging to the Shawnee orphans and paid to guardians or the Shawnee council to be applied for the benefit of the orphans, including the payment made on the 29th of October, 1860, to certain guardians under bond, and the payments made previously, and if he should find that any of the money rightfully belonging to the orphans had been squandered or misapplied, to retain from the remittance such additional sum as he should find to be withheld or misapplied and make payment of the balance to the tribe.

The Commissioner states that his intention was to hold the tribe collectively responsible for all funds belonging to the orphans which had been paid to the executive council of the Shawnees for them, or to guardians under the direction of the council.

On the 29th of January, 1863, Superintendent Branch reported that he made the payment on the 20th, 21st, and 22d of January, 1863; that he ascertained the number of orphans to be thirty-eight, and retained out of the annuity $70 for each, making $2,660 withheld under his instructions. He also reported that owing to the default of guardians, he had withheld the sum of $7,846.39, making a total of $10,506.39 withheld.

It appears that ex-Superintendent Branch failed to settle his accounts with the United States, and defaulted for a large amount, including the Shawnee orphan fund. For many years this office reported this claim to Congress in the deficiency estimate, and in 1884, in the act making appropriations to supply deficiencies, etc., the sum of $9,437.62 was appropriated to be paid the Shawnee Indians on account of arrears of annuities due under the third article of the treaty of May 10, 1854, caused by the defalcation of Harrison B. Branch, Superintendent of Indian Affairs, in 1861 and 1862. The difference between the sum withheld and the amount appropriated, viz, $1,068.77, was recovered from the sureties on the bond of ex-Superintendent Branch. In June, 1885, this office addressed a letter to the honorable the Secretary of the Interior, containing a history of this claim, and asked to be instructed if it was the intention of the Department to so construe the act as to authorize the funds appropriated to be paid to the orphans, without regard to the claim of the tribe as a whole, the tribe having contended that it was a tribal fund, and should be distributed per capita.

On the 3d of July, 1885, the Secretary of the Interior returned the above letter for the Commissioner's recommendation as to the right and proper course to be pursued in the matter.

On the 9th of July, 1885, the Commissioner returned office report of the 29th of June with the opinion that justice demanded that at least the sum of $2,870, part of the said appropriation, should be paid directly to the parties to whom it belongs, and that he could not recommend that the whole amount of the appropriation be paid to the Shawnees as a tribe, which a strict compliance with the letter of the act seemed to require. He also recommended that he be instructed to take no further action in the promises, looking to new and more definite legislation by Congress.

On the 10th day of July, 1885, the Secretary directed this office to take no further action in the premises under the existing law, and the matter has rested from that date until the present time.

From the above history of the claims it appears that this money actually belongs to the Shawnee orphans or their heirs, and I respectfully recommend that the bill under discussion be amended by changing the title to "A bill for the relief of certain Shawnee orphans," and that the entire preamble be stricken out, also all the lines on pages 4 and 5, after the word "assembled" in line 2, and the following inserted in lieu thereof, viz: "That the act of Congress approved July 7, 1884, entitled 'An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1884,' which provides for the payment of the sum of $9,437.62 due the Shawnee Indians for arrears of annuities under the third article of the treaty of May 10, 1854, be, and the same is hereby, amended so as to authorize the payment of said sum to the Shawnee orphans, to whom the money is actually due."

I return herewith the two letters of Senator Dawes, together with copies of correspondence, in duplicate, above referred to.

Very respectfully,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

WASHINGTON, D. C., *June* 4, 1890.

SIR: Referring to S. 2321, a bill introduced by Mr. Plumb, January 27, 1890, which was read twice and referred to the Committee on Indian Affairs, and which is a bill to appropriate money to repay and refund the Shawnee tribal fund, and which is now pending before said committee, I beg to place before you the following:

Charles Bluejacket, a Shawnee Indian, on December 27, 1888, makes the following statement under oath: "That his name is Charles Bluejacket; that he is seventy-two years old; that he lives at or near Bluejacket Station, Cherokee Nation, Indian Territory; that he is a farmer and an ordained minister of the gospel in the Congregational Church; that he is a native Shawnee Indian; that he was United States interpreter for the Shawnees for the year 1853 and until about the year 1870, and a Shawnee councilman and principal chief for four years; that he was born in the State of Michigan; lived there about ten years; from thence with his parents moved to the State of Ohio, with the Shawnee tribe; that they were located on lands ceded by the United States to the Shawnees at Wa-pa-gh-kan-net-ta, Ohio; that he lived there for seven years, and from thence, in 1832, moved with the Shawnees to Kansas, west of the Missouri River, and lived there with the Shawnee tribe until 1870, when he moved with the Shawnees and settled east of ninety-six, in the Cherokee Nation, Indian Territory, as provided by the 15th article of the treaty between the United States and the Cherokee Nation, July 19, 1866.

"That when the said Shawnees were locating and living in Kansas, in the fall of 1862, Indian Superintendent Branch came to De Soto, Kans., with an amount of money due the Shawnees from the United States Government on the Shawnee Indians' tribal funds or money account, to make to the said Shawnees a payment of the same. Before making this payment to the Shawnees, and in the presence of the said Charles Bluejacket, the said Branch informed the Shawnees and their council that out of the amount of money then and there in his possession and control he should deduct and retain and carry away with him a sufficient amount to re-imburse, repay, and replace the Shawnees' orphan fund, which before had been defaulted, wasted, squandered, and misappropriated by the guardians of the Shawnee minor orphans, and which was not collectible or recoverable because of the insolvency of the bondsman of said defaulted guardians. And at the same time the said Branch caused a list of such to be made by the Shawnee council, and among the names appearing on the said list he remembers the names of Paschal Fish, Coffey Greenfeather, Joseph Barnett; there were others, which he does not recollect; that the aggregate amount which was required to be deducted from the money at the said time was between $11,000 and $12,000. And that the said Branch, as Indian superintendent aforesaid, at said time and place, deducted and kept out of the amount of money he then and there had in his possession and control as such officer, and which was a portion of the common tribal moneys of the Shawnee tribe of Indians, granted to the said Shawnees by the treaties and public acts of the United States Government. And the said Branch took and carried away with him the said $11,000 or $12,000 from the said De Soto at said time, promising and purporting that he would pay the said last amount into the Treasury of the United States and the same would be placed to the credit of the deficit Shawnee orphan money. But the said Charles Bluejacket states he is informed and believes that the said Branch never at any time paid into or turned into the Treasury of the United States, or paid to any officer of the United States, the aforesaid sum of $11,000 or $12,000, or any part or portion thereof, but that the said Branch misappropriated the said money to himself and embezzled the whole amount of the said sum of $11,000 or $12,000. And that no part of the said amount has ever been recovered from the said Branch nor collected from his bondsman, and that the Shawnees feel that it is but just and right that the amount should be replaced by the United States Government, and that it should be paid out and distributed to the Shawnees per capita, as all common and tribal moneys have been before paid out and been distributed, and which is requested by the Shawnee council, as appears by the records and minutes, on the 18th day of December, 1888."

This statement was transmitted to the Indian Bureau in a letter of April 1, 1889, dated at Washington, D. C., signed by C. Brownell, attorney and counsel for the Shawnees, and which is now on file in the Indian Bureau.

Subsequently Charles Tucker, in August, 1889, made the following statement under oath: "That his name is Charles Tucker; that he is seventy-four years of age; he is a Shawnee Indian by blood and descent; was born in the State of Ohio; farmer by occupation; resides in the Cherokee Nation, Indian Territory, east of 96 degrees west longitude; * * *

"That he has always lived and resided with the Shawnee Indians; that he has always taken active part and interest in the welfare of the Shawnees; that he has held office in their council, and as their second chief, until old age compelled him to decline re-election; that he was their delegate to Washington for many years; that he has heard read a sworn statement, made by Charles Bluejacket on the 27th day of December, 1888 (the statement as above quoted), and that he knows the facts above stated

to be true; that he was present and a Shawnee councilman at De Soto, Kans., in the fall of 1862, when Indian Superintendent Branch made to the Shawnees a payment of a sum of money due them out of their tribal funds; that the said Charles Bluejacket was chief of the tribe; said Branch was very severe in his manner and statements to the Shawnees for allowing such a large amount of the orphan fund to be squandered in the hands of the guardians. He made inquiries who and how many were responsible and able to return and replace this lost money. The reply was none of the guardians were able. Branch told them that the Shawnee tribe was responsible for the loss of the money, and that he should keep and retain an amount sufficient to replace the said lost money out of the payment he was about to make to them, and that he did retain and carry away with him the sum of, to wit, $10,000 out of said payment to replace the sum which had been squandered by the said guardians of the said Shawnee orphans; that the said Branch stated that he should deposit the said amount in the Treasury of the United States to the credit of the orphan fund; that when he left the said Shawnees he had the said amount of money with him, and he said he would go to St. Joseph, Mo., then to Washington, and there deposit the money, but that the report soon came back to the Shawnees that he, Branch, squandered the said money and lost it by gambling and dissipation. That in the years of 1864-'6, '7, 8, '9 he was a delegate to Washington, D. C., for the Shawnees. That the Commissioner of Indian Affairs's attention was called to the loss of this money by the defalcation and embezzlement of said Branch, and that the said officers informed the delegates that the Government of the United States was responsible and would pay it if the bondsman of Branch was not responsible; that an investigation was to be made, and that as soon as the investigation was reported further action would be taken and the money would be paid. That at the date of making this statement the money has not been paid.

"That it is the unanimous expression of the Shawnees that when the money is paid it should be paid out per capita, the same as the tribal fund was paid out at the time Branch took the money from the Shawnees at De Soto. The affiant further states that among the names who were guardians of said orphans and who defaulted their trust and squandered their money are Paschal Fish, Coffey Greenfeather, Joseph Barnett, and Charles Fish. There were many others, but for the long time which now intervenes this affiant is unable to recollect and state their names."

This statement was transmitted to the Indian Bureau in a letter dated at Washington, October 1, 1889, signed by James W. Denver and C. Brownell, attorneys and counsel for the Shawnees. In the said letter the attention of the Commissioner of Indian Affairs was called to the condition of this defaulted orphan fund, and the Commissioner was requested to investigate and report a recommendation to Congress for an appropriation of money to pay the amount of this claim. As near as I can ascertain the amount is $10,863 as the principal, and with the interest, with 5 per cent. per annum added for twenty-eight years, will show the total amount of the claim.

The claim for interest is based upon the treaty made by the United States with the Shawnee Indians, August 8, 1831 (7 Stat., p. 335, article 7): "The United States will expose to public sale, to the highest bidder, in the manner of selling public lands, the tracts herein ceded by the Shawnees; and after deducting from the proceeds of such sales the sum of seventy cents per acre exclusive of the cost of surveying, the cost of the grist-mill, saw-mill, and blacksmith shop, and the aforesaid sum of $13,000 to be advanced in lieu of improvements, it is agreed that any balance which may remain of the avails of the lands after sales as aforesaid shall constitute a fund for the future necessities of said tribe, parties to this compact, on which the United States agree to pay to the chiefs, for the use and general benefit for their people, annually, 5 per cent. on the amount of said balance as an annuity, said fund to be continued during the pleasure of Congress, unless their people, in general council assembled, should desire that the fund thus to be created should be dissolved and paid over to them, in which case the President shall cause the same to be paid, if, in his discretion, he shall believe the happiness and prosperity of said tribe would be promoted thereby."

This treaty was made with these Indians at the time above, for the purpose of acquiring the lands belonging to these Shawnees at Wa-pa-gh-kon-net-ta and on Hog Creek, in the State of Ohio. Nowhere can it be found that this fund was ever dissolved and paid over in the manner provided in this article of the treaty. Again, in the treaty made with these Shawnees May 10, 1854 (10 Stat., page 1053, article 3): "In consideration of the cession and sale herein made, the United States agreed to pay to the Shawnee people the sum of $829,000, in manner as follows, viz, $40,000 to be invested by the United States at a rate of interest not less than 5 per centum per annum, which, as it accrues, is to be applied to the purpose of education; that the amount, with the addition of $3,000 of perpetual annuities provided by the treaties of August 3, 1795, and September 29, 1817, and now hereby agreed to be likewise so applied, together with the sum paid by the Missionary Society of the Methodist Episcopal Church South, as hereinafter provided, being deemed by the Shawnees as suf-

ficient, for the present, for such purposes; $700,000 to be paid in seven annual installments, during the month of October of each year, commencing with the year 1854, and the residue of $89,000 to be paid within the same month of the year after the determination of that period."

This treaty, as the former, was made with these Indians at this time for the purpose of acquiring from them lands which they ceded to the United States at said time and places. It is assumed that the money which Superintendent Branch embezzled from these Shawnees was from the amounts stipulated for in the articles of these treaties above quoted, and that it was the expressed stipulation that 5 per cent. per annum should be paid on the portion of this money, as provided and stipulated for in the respective articles of these treaties; and it seems to be logical conclusion that it was the intention of the United States to pay to these Indians 5 per cent. per annum for the use of this money, and that it is an item and a part of this claim which should be allowed to these Shawnees, in addition to the principal amount which was taken at said time by said Branch from these Shawnees; and which they have been without for nearly thirty years.

Referring to the liability of the United States to replace this fund, as is claimed in this bill, I submit that it rests on the relations these Shawnees sustain and are held by law to the United States. The Shawnees are wards, the United States is the guardian, dealing with its wards, for the purpose of securing and acquiring the landed estate of the wards, this position in law serves to obligate the United States to be responsible for all moneys which is derived from the purchase of their lands, and that the said moneys shall be paid to and delivered to and into t e hands of the wards, and that no justification can be admitted or be allowed for the diversion of this money to any other purpose than what is expressed in the treaties.

The Shawnee council can not be held liable for the money embezzled by the guardians of the Shawnee orphans, or for the misappropriation of the orphan fund any more than a court, having jurisdiction in probate matters, can be held liable for the default or misappropriation of funds belonging to the ward of the court by a guardian which should be appointed by the court. There is a personal responsibility attached to these guardians and their bondsmen; if the council or the members of the council were in any way accessory, their liability would be of a personal and perhaps a criminal nature, but in no way could the tribal funds be diverted for the purpose of replacing or repaying the amount of the defaulted and embezzled orphans' fund in the hands of these guardians.

I respectfully request that you carefully consider this letter, and that you make the proper necessary call on the Secretary of the Interior for a full and complete report of this claim, and that you will place it before your committee, that such action as shall be proper, in this bill, to secure and pay to the Shawnees their money as provided in this bill.

I respectfully suggest that if this is a proper item, if found to be true as herein set forth, to be placed on the Indian appropriation bill, and if it is found that it is proper, I request that you see that it is put into the appropriation bill for this session of Congress.

I am, most respectfully and obediently, yours,

JOHNSON BLACKFEATHER (his x mark,
Chief and Delegate of the Shawnee Indians.

Attest:

THOMAS DOUGHERTY,
Interpreter.

Hon. HENRY L. DAWES,
United States Senate, Washington, D. C.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1662.

IN THE SENATE OF THE UNITED STATES.

AUGUST 28, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10651.]

The Committee on Pensions, to whom was referred the bill (H. R. 10651) granting a pension to J. W. Robertson, have examined the same and report as follows:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 10651) granting a pension to John W. Robertson, have considered the same and report as follows:

The claimant served honorably as a private in Capt. C. W. Allen's company of Georgia Volunteers in the Indian war of 1836. His period of service covered the time from May 17 to July 28, 1836.

He made application for pension February 8, 1889, alleging that while in said service he incurred a rupture of the left side by his horse falling with him. It appeared, however, that he served subsequently as a volunteer hospital nurse in the Confederate service, and his claim was in consequence rejected by the Pension Bureau under the provisions of section 4716, Revised Statutes.

He is now seventy-seven years old and dependent wholly upon what manual labor he can do for support. The Mexican war service pension act interposed no bar to those who served in the Confederate Army during the war of the rebellion, and your committee believe that the same spirit should be shown towards the aged survivors of the old Indian wars.

The passage of the bill is respectfully recommended.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1663.

IN THE SENATE OF THE UNITED STATES.

AUGUST 28, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10320.]

The Committee on Pensions, to whom was referred the bill granting a pension to Nancy Cato, have examined the same and report as follows:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 10320) granting an increase of pension to Nancy Cato, have considered the same and report:

The claimant's late husband, William Cato, was a private in Capt. R. L. Gamble's company of Georgia militia, war of 1812, and she is now a pensioner under the general law at $12 per month on account of his said service.

It is shown by the papers on file at the Pension Bureau that the claimant is now about ninety-five years old. She was married to the soldier in 1813, and he died in 1859.

Testimony filed in support of the bill shows that the claimant has no property whatever and no person to whom she can look for aid or support; she is afflicted with dropsy of the chest, and totally unable to do anything for a livelihood. She often needs medical attendance, and her pension is her only source of income.

In view of the facts stated, your committee favorably report the bill.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1664.

IN THE SENATE OF THE UNITED STATES.

AUGUST 29, 1890.—Ordered to be printed.

Mr. FAULKNER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8928.]

The Committee on Pensions, to whom was referred House bill 8928, report:

The committee have carefully considered the facts bearing on the right of Daniel M. Miller to a pension, and find that the facts set out in the House report are fully sustained by the evidence, and have adopted the same as their report and recommend the passage of said bill.

[House Report No. 2905, Fifty-first Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8928) granting a pension to Daniel M. Miller, submit the following report:

The testimony filed with the committee clearly shows that the soldier enlisted in Company C, First Virginia Cavalry, in 1861, of the United States, and that while in camp with said company at Elizabeth, now a town in West Virginia, and before said soldier was mustered into the service, the rebels attacked said town and fired in and upon said company and the soldier, being then and there in said company and in line of duty, was struck by a ball from the enemy in the knee, about the 18th day of October, 1861, and was and is permanently disabled and was unable to be sworn into the service when said company left the town, and was confined to his house for nearly a year and has been unfit for duty in the Army ever since.

These facts are fully proven by the captain of the company and several comrades of the soldier of said company who were present when said injury was received by said soldier.

The committee report the bill back, with a recommendation that the same do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1665.

IN THE SENATE OF THE UNITED STATES.

August 29, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3528.]

The Committee on Pensions, to whom was referred the bill (H. R. 3528) granting a pension to James Knetsar, have examined the same and report as follows:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 3528) granting a pension to James Knetsar, have considered the same, and report:

The claimant was a private in Capt. Daniel Powell's company, Third Regiment, Second Brigade, Illinois Volunteers, Black Hawk war, from June 19, 1832, to August 2, 1832, as shown by the records of Second Auditor's Office, Treasury Department.

The claimant in his petition for a pension for said service swears that he was born December 28, 1814, in White County, Ky., consequently he is now past seventy-five years old.

Twenty-six of the leading citizens of claimant's home (Moline, Ill.) petition Congress to grant the relief contemplated by the bill, and they state that they have known the claimant for many years as a hard-working, honorable, and honest citizen.

It is also stated by reliable persons that the claimant is in a condition of almost absolute poverty.

There are many precedents for the allowance of pensions to the aged survivors of the old Indian wars, and your committee report the bill back recommending its passage.

51st Congress, 1st Session. | SENATE. | Report No. 1666.

IN THE SENATE OF THE UNITED STATES.

August 29, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11543.]

The Committee on Pensions, to whom was referred the bill (H. R. 11543) granting a pension to James H. Means, M. D., have examined the same and report as follows:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11543) granting a pension to Dr. James H. Means, submit the following report:

The testimony filed with the committee in this case shows conclusively that the claimant in February, 1862, at the request of the governor of Illinois, became a volunteer surgeon, and was placed in charge of the sick and wounded soldiers at Mound City, Ill., where he remained for some time, when he was sent to St. Louis, Mo., in charge of a hospital boat loaded with sick and wounded soldiers, which various duties he faithfully performed; and being at St. Louis, near his home, he went to see his family by permission of the authorities under which he was serving, and when he arrived at Richview, Ill., the nearest station on the railroad to his home, which was Nashville, Ill., he fell or was thrown from the platform of the car on which he was riding, without any fault of his own, and sustained permanent and lasting injuries, so that from such injuries he was and now is a mental and physical wreck and wholly unfit for the practice of his profession or for the performance of any manual labor, and is without means of support or livelihood, and is and will be an object of charity. These facts are fully proven by the testimony of twelve credible witnesses.

51ST CONGRESS. 1st Session. | SENATE. | REPORT No. 1667.

IN THE SENATE OF THE UNITED STATES.

AUGUST 30, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11773.]

The Committee on Pensions, to whom was referred the bill (H. R. 11773) granting an increase of pension to Mrs. Mary H. Cushing, have examined the same and report:

The report on which this bill was passed by the House is adopted and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11773) granting an increase of pension to Mary H. Cushing, submit the following report:

Mrs. Mary H. Cushing is the widow of a direct descendant of Mr. Justice Cushing, of the first Supreme Court of the United States. Her husband died in 1850, leaving to Mrs. Cushing the care, maintenance, and support of a large family. Remaining true to the memory of her husband she never married again, but devoted her unselfish life to rearing her family, four of whom she afterwards, as a most munificent and self-sacrificing contribution, gave to the service of the country.

The one on whose account she now receives $17 per month, to wit, Lieut. Alonzo H. Cushing, of Battery A, Fourth United States Artillery, fell upon the historic field of Gettysburgh, where he died holding his lacerated bowels with one hand and firing a cannon with the other, having been already ordered to retire on account of his wounds, but answering, "Let me give them one more shot." Another of her sons, Howard B. Cushing, late first lieutenant Third United States Cavalry, was killed in battle with the Indians in Arizona in 1871, leading a forlorn hope in a desperate charge.

Milton, another son, died in the United States naval service. Another of her contributions to the glory of the country was her son, the illustrious William B. Cushing, now dead, commander, United States Navy, who received the thanks of Congress for his most brilliant exploit in destroying the Confederate ram *Albemarle* in 1864, concerning which his brave competitor, Capt. A. F. Warley, Confederate States navy, commanding the *Albemarle*, wrote:

"A more gallant thing was not done during the war."

This more than Spartan mother gave the most of her life to the rearing of these heroes, and, though in a great measure dependent upon them for support, gave them up without hesitation, a precious sacrifice upon the altar of their country. She is now eighty-three years old, and in her great age and infirmity is living with and dependent upon a daughter, at St. Joseph, Mo., for her support.

Believing the gratitude of the Republic is due to this old mother of some of its heroes, and that it can be manifested in no more appropriate way than in making a just and liberal provision for her support during the short time she will be spared to enjoy it, we recommend the passage of the bill.

The bill is reported favorably, with a recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1668.

IN THE SENATE OF THE UNITED STATES.

August 30, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10350.]

The Committee on Pensions, to whom was referred the bill (H. R. 10350) granting a pension to Elizabeth Patten, have examined the same, and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 10350) granting a pension to Elizabeth Patten, have considered the same, and report:

The claimant's late husband, Mighill H. Patten, was, at the first session of the Fiftieth Congress, granted a pension at $8 per month by special act.

The report of the House Committee on Pensions made at that time reads as follows:

"The claimant served in Capt. James Huxford's company of light infantry (drafted), of Maine, called into actual service by the State for the protection of the northeastern frontier. His term of service extended from February 20 to April 25, 1839, and he was detached to First Regiment, First Brigade, Third Division, commanded by Maj. Gen. Isaac Hudsdon.

"This command was called into service by the governor of Maine to repel a threatened military invasion from New Brunswick into the territory of Maine. The State was re-imbursed for its expenses incurred in the campaign by act of Congress, and the rolls of the drafted and enrolled militia turned over to the War Department of the General Government.

"The full circumstances of the use of the troops on the northeastern frontier of Maine are given in Senate report 419, Twenty-sixth Congress, first session, and that report states that the exigency contemplated by the Constitution had arisen to warrant the governor of Maine in calling upon the militia force of the State to defend the frontier, exposed as it was to an immediate attack.

"The claimant filed his claim before the Pension Bureau for pension, but it was rejected on the ground that the company was not mustered into the military service of the United States.

"The claimant was allowed a land warrant for his services in said campaign. The period of service was prior to the war with Mexico, and your committee are of the opinion that a service pension should be granted to the claimant. They therefore recommend the passage of the bill, amended, however, by changing the word 'Hereford's,' in line 5 of the bill, to 'Huxford's;' and also by striking out, in lines 7 and 8, the words 'subject to the provisions and limitations of the pension laws' and inserting in lieu thereof the words 'and pay him a pension at the rate of $8 per month.'"

The soldier died September 8, 1889, leaving his widow in impoverished circumstances, and in poor health.

The bill for her relief is believed to be a meritorious one, and its passage is therefore recommended with an amendment to fix the rate of pension at $8 per month.

O

51ST CONGRESS, 1st Session. | SENATE | REPORT No. 1669.

IN THE SENATE OF THE UNITED STATES.

AUGUST 30, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10635.]

The Committee on Pensions, to whom was referred the bill (H. R. 10635) granting a pension to Olive M. Hechtman, have examined the same, and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10635) granting a pension to Olive M. Hechtman, submit the following report:

Mrs. Hechtman at the opening of the war left her home in Minnesota and came to Washington to devote her time in caring for the sick and wounded soldiers in various hospitals in and around this city. In the capacity of nurse, Mrs. Hechtman spent her time without compensation to the close of the war. She has never before asked for compensation in any form, but now finds herself in straightened financial circumstances, and this fact, with advancing years, induces her to ask from the Government that which claimant is of opinion is justly her due.

That she rendered continued and valuable services in the line stated is attested by Helen M. Clinton, W. A. Croffut, Dr. Mary E. Walker, and others. Claimant was never enlisted and consequently never discharged, rendering voluntary and gratuitous services from motives of patriotism and humanity.

Your committee recommend that the bill do pass, amended by striking out the words "twenty-five" where they occur in said bill and inserting in lieu thereof the word "twelve."

51st Congress, 1st Session. | SENATE. | Report No. 1670.

IN THE SENATE OF THE UNITED STATES.

August 30, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 3196.]

The Committee on Pensions, to whom was referred the bill (S. 3196) granting an increase of pension to Michael McGarvey, have examined the same and report:

The claimant, Michael McGarvey, late of Company K, First Regiment Missouri Light Artillery, and now residing at Salem, Dent County, Mo., is receiving a pension of $14 per month, $6 for gunshot wound and $8 for loss of the sight of the right eye.

About three years since he lost accidentally the sight of his left eye, thus rendering him totally blind. This accident is described in the affidavit hereto appended:

The affiant, T. J. Scott, says that he has known Michael McGarvey, of Salem, Dent County, Mo., intimately for eighteen or nineteen years; that said McGarvey was in the employ of the Scotia Iron Company for ten years, and in the employ of the Nova Scotia Iron Company for four years; that said affiant was the superintendent of said two companies for and during said years; that said McGarvey had but one good eye; that he had lost his right eye, as affiant is informed and believes, during his (McGarvey's) service as artillery-man in the United States service during the war of the rebellion.

Affiant says that during the fall of 1887 said McGarvey was employed by him for purposes of mining in Stoddard County, Mo., at the town of Puxico; that on November 29 of said year said McGarvey lost his left eye by a premature explosion in an iron ore mine in an unavoidable accident.

Affiant says that he saw said McGarvey the day after the accident occurred; that he removed him to Cape Girardeau, Mo.; that he remained there in a hospital for a week or ten days under care of a physician, whose name he can not now recall; that he then had him removed to St. Louis and placed him in a hospital where, he remained for some weeks under treatment of Dr. Green, known as the best oculist in St. Louis; that said treatment was continued for some weeks; that it was impossible to restore his sight, and that he has been totally blind ever since the date of said accident.

Affiant says that McGarvey is a most worthy man.

T. J. Scott.

Subscribed and sworn to before me, a notary public in and for McCracken County, Ky., by T. J. Scott, this 6th day of March, 1890.

[seal.] Clarence Dallam,
Notary Public.

The claimant was a good soldier, serving faithfully through the entire period of the late war.

He is now sixty years of age, has a family to support, and is in indigent circumstances.

The explosion aforementioned did not in any way injure the right eye, the sight of which was lost in the service, and which if it had not been so lost would now be of inestimable value to him.

Your committee is of the opinion that this is a very meritorious claim, and therefore recommend the passage of the bill.

O

51st Congress, 1st Session. | SENATE. | Report No. 1671.

IN THE SENATE OF THE UNITED STATES.

August 30, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11417.]

The Committee on Pensions, to whom was referred the bill (H. R. 11417) granting an increase of pension to Cecilia I. Woods, widow of Charles R. Woods, late of Seventy-sixth Regiment Ohio Volunteers, have examined the same, and report:

That from the facts stated in the House report, which is hereto attached and made a part hereof, we believe this to be a meritorious measure, and do recommend the passage of the bill.

[House Report No. 2907, Fifty-first Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11417) granting an increase of pension to Cecilia I. Woods, submit the following report:

The record of the husband of this widow, Maj. Gen. Charles R. Woods, is given by the Adjutant-General as follows:

Military history of Charles R. Woods, of the United States Army.

Adjutant-General's Office,
Washington, January 2, 1875.

REGULAR ARMY RECORD.

Graduated at the U. S. Military Academy and appointed brevet second lieutenant First Infantry, 1st July, 1852; second lieutenant First Infantry, 31st July, 1852; second lieutenant Ninth Infantry, 3d March, 1855; first lieutenant Ninth Infantry, 16th October, 1855; captain Ninth Infantry, 1st April, 1861; major Eighteenth Infantry, 20th April, 1864; transferred to Twenty-seventh Infantry 21st September, 1866; lieutenant-colonel Thirty-third Infantry, 28th July, 1866; unassigned, 15th March, 1869; assigned to Fifth Infantry 24th March, 1869; colonel Second Infantry, 18th February, 1874. Brevetted lieutenant-colonel 4th July, 1863, for gallant and meritorious services at the capture of Vicksburg, Miss.; colonel 24th November, 1863, for gallant and meritorious services at the battle of Chattanooga, Tenn.; brigadier-general 13th March, 1865, for gallant and meritorious services in battle before Atlanta, Ga., and major-general 13th March, 1865, for gallant and meritorious services at the battle of Bentonville, N. C.

Service.—On duty at Fort Columbus, N. Y. H., September 30 to October 24, 1852; at Fort Wood, N. Y. H., to November, 1852; thence he proceeded to Texas and joined company December 16, 1852—served therewith to May 12, 1855, when he left to join the Ninth Infantry, recruiting for regiment from June 12, 1855, to November 28, 1855; with regiment at Fortress Monroe, Va., to December 15, 1855; thence with regiment to and in Washington Territory to November 3, 1857; on leave of absence to January 21, 1858; on recruiting service and en route to company to September 17, 1858; with regiment in Washington Territory to April 29, 1860; on general recruiting service at Fort Columbus, N. Y. H., to April 20, 1861; on duty at Generals Patterson's and Bank's headquarters, in Maryland, to August, 1861; on recruiting service at St. Louis,

Mo., to October 3, 1861. (In volunteer service October 13, 1861, to September 1, 1866—see record below.) Commanding District of the Chattahoochie to March 1, 1867; on permission to delay to June 14, 1867; commanding depot, Newport Barracks, Ky., to April 16, 1869; commanding post of Fort Wallace, Kans., May 1, 1869, to (and troops in field at Kit Carson, C. T.) February 20, 1871; on sick leave to July 15, 1871; member of Army Regulation Board to March, 1872; on S. C. D. to March 5, 1873; commanding Fort Larned, Kans., to March 28, 1873; on sick leave and on S. C. D. to date of retirement, December 14, 1874.

Mustered into service as colonel Seventy-sixth Ohio Volunteers, 13th October, 1861; brigadier-general volunteers, 22d August, 1863. (Brevetted major-general November 22, 1864, for long and continued services and for special gallantry at Griswoldsville, Ga.)

Service.—Commanding Forty-fourth Ohio Volunteers in the West Virginia campaign from October 14, 1861, to November 13, 1861; Tenth Ohio Volunteers in same campaign to November 18, 1861; at Newark, Ohio, organizing, drilling, and equipping his regiment, to February 9, 1862; commanding regiment in the District of West Tennessee; to February 21, 1862; third brigade, third division, District of West Tennessee, to April 6, 1862; his regiment in same brigade, to April 25, 1862; the brigade to August, 1862; second brigade, third division, Army of the Southwest, to October 15, 1862; third division, Army of the Southwest, to October 28, 1862; second brigade, third division, to December 16, 1862; his regiment in fifteenth corps, to April 2, 1863, and second brigade, first division, fifteenth corps, to July 30, 1863; on leave of absence, to August 18, 1863; commanding second brigade, first division, fifteenth corps, to September 1, 1863, and first brigade, first division, fifteenth corps, to October 31, 1863; first division, fifteenth corps, to November 23, 1863, and first brigade, first division, fifteenth corps, to December 23, 1863; on leave of absence to January 13, 1864; commanding first division, fifteenth corps, to February, 1864; first brigade, first division, fifteenth corps, to July 15, 1864; first division, fifteenth corps, to August, 1864; resumed command of same division September 23, 1864, and remained in command thereof to July, 1865; commanding Department of Alabama from July 18, 1865, to June 1, 1866; Department of the South to August 18, 1866; District of Chattahoochie to—see Regular Army Record.

Mustered out of volunteer service September 1, 1866.

THOMAS M. VINCENT,
Assistant Adjutant-General.

General W. T. Sherman, on May 3, 1890, wrote the applicant as follows:

"I will be most happy to help in the matter of an increased pension for the widow of General Charles R. Woods. No officer has a better record—a fact which is well known at the War Department.

The claimant has no income whatever except the pension of $30 a month, and has an unmarried daughter to care for, and your committee, following the precedents in similar cases, recommend that her said pension of $30 per month be increased to the sum of $50 per month, and recommend the passage of the bill thus amended: Strike out the word "one" in line five, and the word "hundred" in line six, and insert therein instead the word "fifty."

O

51st Congress, 1st Session. | SENATE. | Report No. 1672.

IN THE SENATE OF THE UNITED STATES.

August 30, 1890.—Ordered to be printed.

Mr. Manderson, from the Committee on Printing, submitted the following

REPORT:

[To accompany H. R. Concurrent Resolution authorizing the printing of 38,000 copies of the report of the Commissioner of Education for 1888 and 1889, 20,000 copies for the use of the House of Representatives and 10,000 copies for the use of the Senate, and 8,000 copies for the use of the Commissioner of Education.]

The Committee on Printing, to whom was referred the above concurrent resolution, having considered the same, report as follows:

In previous years, for some time, the proportion observed in the distribution of the report has been 6,000 copies for the use of the Senate, 12,000 copies for the House, and 20,000 copies for the Commissioner of Education. The House amended the resolution to print the report for 1889 as above. The Commissioner of Education, in a letter addressed to the chairman of this committee, submitted herewith and made a part of this report, explains fully why the apportionment to his Bureau should not be reduced. There can be but one opinion as to the value of the report, and that the persons who supply much of the important data contained in the report should be remembered with copies of it.

The committee, therefore, recommend an amendment to the resolution, increasing the number of copies for distribution by the Commissioner of Education, through his Bureau, from 8,000 to 20,000 copies, and making the distribution 8,000 for the Senate, 16,000 for the House of Representatives, and 20,000 copies for distribution by the Commissioner of Education; and thus amended the committee recommend that the bill do pass.

The estimated cost for printing and binding 50,000 copies is $32,585. The cost of printing the 44,000 copies will be about $28,000.

Department of the Interior, Bureau of Education,
Washington, D. C., March 5, 1890.

Dear Sir: Recurring to the subject of our recent conversation, I beg leave to state that 20,000 copies of the annual report of the Commissioner of Education is the smallest number that will at all meet the legitimate demands upon this Bureau.

As you may be aware, the material from which the report is made up is furnished voluntarily in manuscript returns and printed documents by the superintendents, principals, presidents, and other officials of school systems, schools, colleges, libraries, etc., editors of educational journals and other publications, throughout the United States and foreign countries, and the only return which this office can make for their labor and trouble is a copy of the report and an occasional circular. Correspondents of this class, from whom information is received number over 9,500; they are persons actively engaged in educational work and ought to be supplied first of all.

Secondly, the working library of the Bureau is composed of official reports, documents, and educational works and papers which are largely obtained through exchange. This disposes of several thousand volumes of the report each year.

Again, this being a bureau of international exchange to which the Department of State, members of Congress, and others refer all applications from foreigners for information respecting our educational status and progress, and to which a large number of such applications come direct, in person and by letter, particular attention must be paid to foreign correspondence and exchange.

Lastly, the Bureau has in manuscript the names of some 10,000 teachers, professors, writers, clergymen, lawyers, physicians, merchants, and others not embraced in the other classes, who are prominent in their communities and interested in educational progress, to whom it is very desirable that documents should be sent, and to whom they have been sent hitherto as far as the supply would permit.

The Bureau could easily distribute 25,000 copies to good advantage, and that is but a small number when it is considered that nearly 300,000 teachers are employed in the schools of the United States.

I am particularly gratified that the House of Representatives has ordered 20,000 copies for itself and 10,000 for the Senate, and I respectfully request that the House resolution be amended by your committee so as also to allow 25,000 for the Commissioner of Education.

I am, sir, very respectfully yours,

W. T. HARRIS,
Commissioner.

Hon. C. F. MANDERSON,
United States Senate.

A similar communication has been sent to the House committee.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1673.

IN THE SENATE OF THE UNITED STATES.

AUGUST 30, 1890.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 2174.]

The Committee on Military Affairs, to which was referred the bill (H. R. 2174) to remove the charge of desertion from Ellery C. Folger, have duly considered the same, and submit the following report:

Among the papers referred to your committee was the following letter from the Secretary of War and the accompanying report:

WAR DEPARTMENT,
Washington City, February 6, 1890.

SIR: In reply to your request for information upon House bill 2174, Fifty-first Congress, first session, to remove charges of desertion from Ellery C. Folger, late a member of Company H, Eleventh New York Volunteers (Ellsworth Fire Zouaves), I have the honor to inclose a report from the officer in charge of the record and pension division of this Department.

Very respectfully,

REDFIELD PROCTOR,
Secretary of War.

Hon. B. M. CUTCHEON,
Chairman Committee on Military Affairs, House of Representatives.

Case of Ellery C. Folger, late private Company H, Eleventh New York Volunteers (Ellsworth's Fire Zouaves).

RECORD AND PENSION DIVISION, *February 6, 1890.*

Ellery C. Folger, private Company H, Eleventh New York Volunteers (Ellsworth's Fire Zouaves), was enrolled on April 20, 1861, to serve during the war, and is reported as having deserted on August 1, 1861. He never returned to his command, which was retained in service until June 2, 1862, when it was mustered out of service because of utter demoralization.

The Eleventh New York Volunteers (First New York Fire Zouaves) became so demoralized at the battle of Bull Run, Virginia, July 21, 1861, as to be virtually disbanded, but on September 19, 1861, it was reorganized at New York City, and many of its original members rejoined it. No record is found to show that this soldier was wounded.

The following is a synopsis of testimony submitted to the War Department in support of an application for removal of the charge of desertion against this soldier:

Ellery C. Folger (the applicant), in an affidavit dated July 7, 1885, states, at the battle of Manassas, July 21, 1861, he was wounded in the left ankle; was then furloughed and proceeded to New York City, where he was released from the service by the acting colonel and the surgeon of his regiment, which release he has mislaid or forwarded it to Washington at the time of its issue. The regiment was sent to Newport News immediately after the first battle of Manassas, and about September it was disbanded as an organization, some of the men re-enlisting in other regiments, but most of them

returning to private life. Subsequent to this time he knows nothing of the movements of his regiment, and he was under the impression that he had a discharge from Washington.

On September 22, 1885, he states that the "furlough," which he claims to have received, consisted in a verbal furlough given him at Alexandria, Va., after the battle of Manassas, by the acting colonel, Major Cregier, with whom, on or about July 25, 1861, he went to New York. Major Cregier is dead.

On September 26, 1887, he testifies that he was discharged about August 15, 1861, on account of gunshot wounds in the left ankle received at first battle of Bull Run, Virginia. He was wounded to such a degree that Major Cregier, the acting colonel, ordered him to New York City, from Alexandria, about July 25, 1861. As soon as able he reported and was discharged from the service at the Astor House, New York City, on certificates of acting Colonel Cregier, Surgeon Gray, and Captain William Hackett, commanding Company H. Those papers were mislaid or sent to Washington.

On September 26, 1887, Richard N. Bowerman, late lieutenant and captain of the regiment, testifies that immediately after the first battle of Bull Run, the regiment became very much demoralized, consequent upon that battle and the death of Col. Noah L. Farnham. The regiment was sent back to New York City to be reorganized. Upon arriving there many of the officers did not report to the regiment and upon the representations made by some of those non-reporting officers, to the effect that the men of the regiment were discharged the service, many of the enlisted men never rejoined the regiment, which was partly reorganized in New York and sent to Newport News, Va., in September, 1861. (This affiant resigned about April, 1862.)

On September 22, 1887, Henry C. Folger and Fred. Worth testify that Ellery C. Folger was wounded in left ankle at Bull Run July 21, 1861; was ordered back to New York City, and, being unfit for further military duty, he was discharged. It does not appear that these affiants were comrades of Ellery C. Folger, and they do not state the source of their knowledge.

The applicant's own statements under oath are contradictory and uncorroborated. The testimony is insufficient to establish that he was prevented from completing his term of enlistment (until June 2, 1862), by reason of wounds, injuries, or disease incurred in line of duty. His claim of having been wounded in battle July 21, 1861; of being furloughed or "ordered" to New York City, and of his discharge from service about August 15, 1861, is not supported by any record or other competent evidence.

A report in this case, embodying the foregoing record and synopsis of the testimony, was furnished by the Adjutant-General, U. S. Army, May 5, 1888, in connection with House bill 9336, Fiftieth Congress, first session.

Respectfully submitted.

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

The SECRETARY OF WAR.

A favorable report was made in the House upon this bill, House report No. 2050, Fifty-first Congress, first session, to which was appended a letter from Mr. M. B. Brady and two very informal and insufficient affidavits from Emmie M. Clark and Sarah D. Reed. Your committee informed the claimant that the evidence was not sufficient to justify favorable action, and thereupon your committee were furnished with he affidavits which are hereto appended and made a part of this report.

From these affidavits it seems to be clearly established that this claimant was wounded in the battle of Manassas or Bull Run, and in company with his regimental commander returned to his home in New York, and, as soon as he was able to do so, reported to the headquarters of the regiment at the Astor House, and there found the acting colonel, the surgeon, and captain of his company, and, upon application to them and satisfactory evidence as to his inability to perform military duty at the time, they gave him what he had a right to believe was a good and sufficient discharge from his command and from further military duty therein, and that such a paper writing, purporting to be an honorable discharge from the military service, was in the possession of the claimant for some years thereafter, and was seen and identified by the witnesses Clark and Reed, and has since been lost or destroyed.

The claimant believing such paper writing to be an honorable discharge, paid no further attention to the question of his record and services in said company.

After the terrible demoralization of this regiment and its practical disbandment, Charles McK. Leosar attempted to reorganize the regiment. The former lieutenant colonel commanding, John A. Cregier, having resigned on September 21, 1861, the captain of claimant's company, William Hackett, having resigned August 1, 1861, together with several other captains and lieutenants, Col. Leosar found the claimant absent and therefore marked him as a deserter, as shown by the following letter from Col. Leosar:

NOAH L. FARNHAM POST, NO. 458, DEPARTMENT OF NEW YORK, G. A. R.,
COMMANDER'S OFFICE, 8 SOUTH WILLIAM STREET,
New York, March 18, 1890.

When the Eleventh Regiment New York Volunteers was ordered back to New York to reorganize after the first battle of Bull Run, the commanding officer of the regiment, Colonel Cregier, and the commanding officer of Company H, Captain Hackett, were both densely ignorant of the Army Regulations and of military law. I have no doubt that between them they gave E. C. Folger what he supposed was a legal discharge, and I have no doubt that he should have been discharged on surgeon's certificate of disability. As he appeared, when I took command of the regiment, to be absent without leave, I had but one way to account for him. Knowing what I do now, if I were a member, I should vote to change Folger's record from "deserted" to "discharged for disability."

CHARLES MCK. LEOSIER,
Late Colonel, Eleventh New York Volunteers.

So great was the demoralization in the regiment that it was finally mustered out of the service on the 2d of June and never did any service after the battle of Manassas, was simply and nominally in the service, attempting to be reorganized.

Your committee believe that, as a matter of justice and right, the claimant is entitled to be discharged as of date August 1, 1861, as provided in the bill, and therefore report the bill back to the Senate and recommend that it be passed.

I, Ellery C. Folger, of Baltimore City, in the State of Maryland, hereby certify that on April 20, 1861, I enlisted, in the city of New York, in the First Regiment Ellsworth Fire Zouaves, of New York; that on May 7, 1861, the said regiment was mustered into the United States service at Washington, D. C., and sworn in for the war; that on July 21, 1861, at the battle of Manassas (Bull Run), I was wounded in the left ankle by gun-shot, and was accompanied from the field by T. King, of the Sixty-ninth New York Militia regiment, who remained with me until my arrival at Alexandria, Va., where I was brought by a farmer in his hay-wagon. Said King enlisted in another regiment, and was shortly afterwards killed in battle.

At that time, there being no regular military hospital in Alexandria, I was ordered verbally by Major John Cregier, then acting colonel (Colonel Farnham, in command of the regiment, having died from the effects of wound received at said battle), to proceed to the North. I went to Washington and remained at what is now the St. James Hotel, where a doctor, whose name I did not learn, treated my wound. On the same evening, about July 25, 1861, in company with Acting Col. John Cregier, I proceeded to New York, and was placed under the care of a Doctor Baldwin, since dead. When able to travel left for Nantucket, Mass., to recuperate, and on my return to New York with my brother, Henry C. Folger, went to the only known headquarters of the said regiment, viz, the Astor House, to report; there I met Acting Col. John Cregier, Surgeon Gray, and Capt. William Hackett (of Co. H.), all of whom are dead, who heard my report, and immediately drew up a certificate of discharge from the service on account of disabilities; said paper has been mislaid or lost, as I have been unable to find it after a thorough search. For several months I was compelled to use crutches and canes, and was unable to attend to any business or to return to my former position as clerk in a mercantile house, which had been kept open for me.

After a short business experience in 1862 I went, about the middle of October or the 1st of November, to Norfolk, Va., on account of health and business.

Charles McLoseor, the adjutant of the said regiment, called together the remnants of the same in New York, and organized the Eleventh New York Volunteers. This regiment went to Newport News, Va., where it was disbanded on June 2, 1861. I knew nothing of the action of Colonel McLosoer until about 1885, when I ascertained my record as reported by him to the War Department. Up to that date, 1885, I supposed that the said discharge was legal, and that I was relieved from further duty and service in the Army. Colonel McLoseor forwarded me the letter which appears among the papers now in the hands of the Military Committee of the United States Senate.

ELLERY C. FOLGER.

STATE OF MARYLAND, *Baltimore City, to wit:*

I hereby certify that on this 1st day of August, in the year 1890, before me, the subscriber, a notary public of the State of Maryland in and for the city of Baltimore aforesaid, duly commissioned and qualified, personally appeared Ellery C. Folger, who made oath in due form of law that the matter and facts above stated are true to the best of his knowledge and belief.

Witness my hand and notarial seal the day and year aforesaid.

[SEAL.] SAMUEL S. BOGGS.
Notary Public.

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252 BROADWAY, NEW YORK, *August* 2, 1890.

I, Henry C. Folger, of the city of New York, State of New York, personally know that my brother, Ellery C. Folger, now residing in the city of Baltimore, Maryland, enlisted in Company H, 1st Regiment Ellsworth's Fire Zouaves, in April, 1861. I saw him leave New York with his regiment by steamer. On the last of July, 1861, I met him in New York. He was then suffering from the effects of a wound, which, I was informed, was received at the battle of Bull Run a few days before that. As soon as he was able I know that he went to Nantucket, Mass., and on his return I accompanied him to the Astor House, the headquarters of the regiment, and personally know that he received a certificate of discharge from the acting colonel, John Cregier, Surgeon Gray, and Captain Hackett, of his company. I also know that he was on crutches, and was incapacitated for a long time for military duty, and for a long period after he was in no way fit for business.

HENRY C. FOLGER.

Subscribed and sworn to before me this 2d day of August, 1890.

JAMES M. TULLY,
[SEAL.] *Notary Public New York County.*

I, Emmie M. Clark, of Baltimore City, in the State of Maryland, do hereby certify that I have been acquainted with Ellery C. Folger, at present residing in Baltimore City and State aforesaid, for twenty-seven years.

I first met him in Norfolk, State of Virginia, about the year 1863.

In or about 1865 I saw and read a paper purporting to be a certificate of discharge given to the said Ellery C. Folger by the officers of the Eleventh Regiment, New York Volunteers, Ellsworth Fire Zouaves. I can not recall by whom it was signed nor its date.

Sarah A. Folger, the wife of the said Folger, handed me the certificate aforesaid, which, as a war relic, was an object of interest to us.

I also know that in the year 1863 he appeared to suffer considerably from the effects of a wound in the left ankle, which I was informed was a gunshot wound received in the battle of Bull Run.

EMMIE M. CLARK.

STATE OF MARYLAND, *Baltimore City, to wit:*

I hereby certify that on the 29th day of July, in the year 1890, before me, the subscriber, a notary public of the state of Maryland, in and for Baltimore City aforesaid, duly commissioned and qualified, personally appeared Emmie M. Clark, who made oath in due form of law that the matters and facts above stated are true, to the best of her knowledge and belief.

Witness my hand and notarial seal the day and year aforesaid.

[SEAL.] SAMUEL S. BOGGS.
Notary Public.

I, Sarah D. Reed, of Baltimore City, in the State of Maryland, do hereby certify that I became acquainted with Ellery C. Folger, of Baltimore City, in the State aforesaid, some time prior to 1865.

I then resided in Norfolk, in the State of Virginia.

Mrs. Folger, the wife of the said Ellery C. Folger, handed to me, about 1865, a certificate of discharge of the said Folger, which I then read.

It was a certificate of his discharge from the Eleventh Regiment, New York Volunteers, Ellsworth Fire Zouaves.

I was in her house at the time.

It is impossible for me to state the names of the officers who signed said certificate nor can I recollect its form.

Mr. Folger at that time appeared to suffer from the effects of a wound in the left ankle. I was informed that the wound was received at the Battle of Bull Run.

SARAH D. REED.

STATE OF MARYLAND, *Baltimore City, to wit:*

I hereby certify that on this 29th day of July, in the year 1890, before me, the subscriber, a notary public of the State of Maryland, in and for Baltimore City aforesaid, duly commissioned and qualified, personally appeared Sarah D. Reed, who made oath in due form of law that the matter and facts above stated are true, to the best of her knowledge and belief.

Witness my hand and notarial seal the day and year aforesaid.

[SEAL.] SAMUEL S. BOGGS,
Notary Public.

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51st Congress, 1st Session. | SENATE. | Report No. 1674.

IN THE SENATE OF THE UNITED STATES.

September 1, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9897.]

The Committee on Pensions, to whom was referred the bill (H. R. 9897) granting an increase of pension to William B. McCreery, have examined the same and report:

The report on which this bill was passed by the House is concurred in, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9897) granting an increase of pension to Col. William B. McCreery, submit the following report:

The claimant, Col. William B. McCreery, enlisted early in the year 1861; was one of the first men to offer his services to the Government from the State of Michigan, going to the front as a private soldier, and was engaged in many battles, winning rapid promotion for his bravery and soldierly qualities, retiring from the service in the year 1864 when he had become totally disabled from wounds received in several battles. I submit in corroboration of this the report of Surgeon Thomas D. Ingram, medical referee of the Pension Department, to which I call your attention, and respectfully recommend the passage of the bill.

Certificate No. 40691. *William B. McCreery, colonel Twenty-first Michigan Volunteers.*

Medical Division, *April* 25, 1890.

Respectfully referred to Hon. Charles P. Lincoln, deputy commissioner of pensions.

In response to your personal request, I have carefully examined the papers in this claim for rerating and increase of pension.

The records show that claimant received six different wounds in the service, wounding every limb of the body—part of them as captain and part of them as colonel.

The medical examinations have described these wounds, some of them as severe, and he has been pensioned at the rate of total from discharge to this time. Upon his application for a rerating February 3, 1890, claimant was ordered before the Flint, Mich., board of examining surgeons, and examined in March, 1890, this board recommending a first-grade rating for his disabilities.

The wounds described are severe wounds of both thighs, and a severe wound of left wrist received as captain, and a wound of right arm and another of left thigh received while a colonel. They rated claimant at first grade, upon the ground that he needed a regular attendant.

Before action was taken upon this certificate, and by your direction, claimant was examined by an office board, and because of a wide difference of ratings; again by your direction he has been examined by the New York Avenue board of this city. These examinations have been most thorough, and have substantially agreed in describing and rating the several wounds as follows: For the severe wounds of both thighs a rating of total, or $20; for the severe wound of left wrist, resulting in total disability in the hand, a rating of $30; for the gunshot wound of right arm a rating of one-half of total; and for the gunshot wound of left thigh a rating of one-half total.

The sum of these ratings amounts to $80, but the sum of his disabilities, as believed by the last two boards making examinations, do not place the claimant in such a condition as to require the regular aid and attendance of another person as contemplated by the law.

Claimant is now receiving a pension of $30 per month, and no increase of rate is applicable to his case until his disablities reach a first grade. He would receive a pension of $30 for the wound of hand alone. He would receive a pension of $20, or total of rank, for the wounds of thighs alone. He might receive a rating of total, or $30, for the other wounds alone received as colonel. But there is no provision made by law by which the ratings for these disabilities may be thus added together, and since no rating between $30 and the first grade, now $72, is applicable to his claim, this bureau can not increase his pension.

It seems impossible, under the laws governing the dispensing of pensions, to do this heroic officer justice. His wounds, though healed, still cause much suffering, and they bear witness in verification of his record that he fought and bled, and fought and bled again. His claim, indeed, is one of those to which a series of fixed laws can with difficulty be made to apply, and seems to suggest that the only possible method by which he may be equitably pensioned should be by special recognition by the law-making power granting him a pension under a special act.

Respectfully,

THOS. D. INGRAM,
Medical Referee.

The bill is reported favorably with a recommendation that it do pass.

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51st Congress, 1st Session. | SENATE. | Report No. 1675.

IN THE SENATE OF THE UNITED STATES.

September 1, 1890.—Ordered to be printed.

Mr. Barbour, from the Committee on the District of Columbia, submitted the following

REPORT;

[To accompany S. 4310.]

Your committee, to whom was referred Senate bill 4310, "To authorize the Washington and Cumberland Railroad Company to extend its road into the District of Columbia," respectfully report:

That the Washington and Cumberland Railroad Company is a corporation organized and existing under the provisions of article 23 of the code of public general laws of Maryland, title "corporations," subtitle "railroad companies."

By the terms of its charter it is authorized to build a railroad from Cumberland, in the State of Maryland, to the city of Washington, in the District of Columbia.

By an act of the general assembly of the State of Maryland, passed February 28, 1890, this corporation, in addition to the powers possessed by it under its charter, above alluded to, was authorized to construct, maintain, equip, and operate, by steam or other power, a railroad upon and along the tow-path or bed of the Chesapeake and Ohio Canal, or upon land of the Chesapeake and Ohio Canal Company adjacent to said canal, or upon land acquired for the purpose from the terminus of the said canal from the city of Cumberland to such point on the canal in or near the city of Washington, in the District of Columbia, as the corporation may select.

Section 3 of this act authorizes this corporation to acquire by lease from the Chesapeake and Ohio Canal Company, or by condemnation proceedings, the title held and enjoyed by it to all its properties and water and other rights between Cumberland, Md., and West Seventeenth street, in the city of Washington.

The charter of this company was further amended by the general assembly of the State of Maryland by an act passed March 27, 1890, and by which act, in addition to the powers possessed under its charter, and the amendment thereto, above mentioned, power was granted to it to buy the Chesapeake and Ohio Canal and its works, property, water rights, and franchises of any description at any sale that may be made by the board of public works of said State, acting according to law, or at any sale made under any decree of court in said State or in the District of Columbia, etc.

The two special acts above referred to are printed as an appendix to this report, to which reference is made for full details as to the provisions thereof.

It is a well-known fact that the Chesapeake and Ohio Canal Company was created by the State of Maryland to construct the canal as one of its great public works, in the construction of which canal the State invested a large amount of money.

It is also a well-known fact that by the freshet of June, 1889, the canal was so injured (the canal company being insolvent) that it is practically impossible ever to restore it to use as a water-way for transportation.

The State of Maryland has recognized this fact by the enactment of the statutes amending the charter of this railroad company, and authorizing the railroad company to purchase the canal, its works, property, water rights, and franchises of every description at any sale that may be made by the board of public works, or under any decree of any court in the State of Maryland or in the District of Columbia, and to construct its railroad along and over the banks and bed and adjacent property belonging to this canal company.

It is contemplated by the State of Maryland to substitute the railway for the canal. By this action of the State the railway company will be enabled to construct its road to the District line, and the object of the present bill is to enable said company to extend into the District of Columbia the road thus authorized by the laws of Maryland.

The bill under consideration provides for acquiring the title held and enjoyed by the Chesapeake and Ohio Canal Company in its properties and water rights, etc., within the District of Columbia, in manner and form as provided by the charter and acts of the general assembly of the State of Maryland for the acquisition of the property, water, and other rights lying and being in said State of Maryland.

It may be that the canal being an entirety, extending from Cumberland into the District of Columbia, might be sold under the law of the State of Maryland by the canal company to the railroad company, or under a decree of a court of the said State of Maryland, and that such sale would give a valid title to such portion of the canal and its properties as lie within the District of Columbia.

If this be so, the provisions of the bill in that respect can do no harm, but these provisions are inserted in the bill to the end that there shall be no question as to the right of this company to acquire the property of the canal company lying within the District of Columbia, with a view to making a continuous line from Cumberland to the city of Washington.

The bill further provides for the acquisition by the company of such other property as may become necessary to be acquired within the District for the construction and operation of the road. The acquisition of this is to be by purchase, lease, or condemnation. Precedents for legislation of this character will be found in the act authorizing the extension of the Baltimore and Potomac Railroad into the District of Columbia, approved February 5, 1867 (14 Stats., 387), and also the act authorizing the Baltimore and Ohio Railroad Company to extend its road into the District of Columbia, approved July 25, 1866 (14 Stats., 250).

By section 2 of this bill, in case the company proceeds to acquire property by condemnation, it is required to proceed under the provisions of the act of February 5, 1867 (14 Stats., 387), which is an act authorizing the Baltimore and Potomac Railroad Company to acquire lands for the purpose of its lateral branch, and the substance of the provision is that the company shall apply to a justice of the peace, who shall issue his warrant directed to the marshal, requiring him to summon a jury of twenty disinterested citizens, who are required to proceed to value the damages which the owner or owners will sustain, etc.

This provision gives ample protection to the rights of citizens whose property may be required for the purposes of the construction of this road. It will be observed that while it is contemplated to occupy the old canal property for the purposes of a railroad, such provision is made in the bill as that the company will not be permitted to construct any road within the District until the line has been approved by the Commissioners of the District and the details as to the construction have also been approved by the Commissioners.

Your committee have considered it better to repose this power to determine where the line shall be and the details as to the manner of construction to the judgment of the Commissioners than to undertake to incorporate such details as it involves in an act of Congress.

This road, when constructed, will manifestly be of great importance to the region of country which it traverses, and which, by reason of the destruction of the canal, is deprived of any public means of transportation, and is also important to the public at large by reason of the connections it will be enabled to make with the general railway system of the country. It is also manifest that it must be of great benefit to the city of Washington.

Your committee, therefore, recommend the passage of the bill.

APPENDIX.

CERTIFICATE OF INCORPORATION OF "THE WASHINGTON AND CUMBERLAND RAILROAD CO."

This certificate of incorporation made this first day of February, eighteen hundred and ninety, by Enoch Pratt, David L. Bartlett, John A. Hambleton, of Baltimore City, in the State of Maryland, Asahel Willison, of Allegany County, in said State, Martin N. Rohrback, of Frederick County, in said State, Hattersly W. Talbott, of Montgomery County, in said State, and Erastus Kurtz Johnson, of Washington City, in the District of Columbia, witnesseth, that the above-named Enoch Pratt, David L. Bartlett, John A. Hambleton, Asahel Willison, Martin N. Rohrback, Hattersly W. Talbott, and Erastus Kurtz Johnson do hereby associate themselves as corporators for the purpose of forming a railroad company under the provisions of article 23 of the code of public general laws of Maryland, title "Corporations," subtitle "Railroad Corporations," with all the powers, rights, and franchises therein granted to such corporations, and under their hands and seals do hereby certify as follows, to wit:

First.—The name of such corporation shall be "The Washington and Cumberland Railroad Company."

Second.—The termini of such railroad shall be Cumberland, in Allegany County, in the State of Maryland, and Washington, in the District of Columbia, and the counties through which said railroad shall pass are Allegany, Washington, Frederick, and Montgomery Counties.

Third.—The capital stock of said company shall be two millions of dollars, divided into forty thousand shares of the par value of fifty dollars each.

In witness whereof we hereto subscribe our names and affix our seals this first day of February, in the year eighteen hundred and ninety.

ENOCH PRATT.	[SEAL.]
DAVID L. BARTLETT.	[SEAL.]
JOHN A. HAMBLETON.	[SEAL.]
ASAHEL WILLISON.	[SEAL.]
MARTIN N. ROHRBACK.	[SEAL.]
HATTERSLY W. TALBOTT.	[SEAL.]
ERASTUS KURTZ JOHNSON.	[SEAL.]

Test:

CHARLES W. PRETTYMAN.
MORDECAI MORGAN.

STATE OF MARYLAND, *County of Montgomery, Sct.:*

I hereby certify that on this first day of February, in the year eighteen hundred and ninety, before the subscriber, a justice of the peace, of said State in and for said county, personally appeared Enoch Pratt, David L. Bartlett, John A. Hambleton, Asahel Willison, Martin N. Rohrback, Hattersly W. Talbott, and Erastus Kurts Johnson and severally acknowledged the aforegoing certificate to be their act.

MORDECAI MORGAN, *J. P.*

STATE OF MARYLAND, *Montgomery County, Sct.:*

I hereby certify that Mordecai Morgan, esquire, before whom the annexed acknowledgments were made, and who has thereto subscribed his name, was at the time of so doing a justice of the peace of the State of Maryland in and for Montgomery County, duly appointed, commissioned, and sworn, and authorized by law to take acknowledgments and administer oaths, and that the signature attached thereto purporting to be his I believe to be genuine.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the circuit court for Montgomery County this first day of February, A. D. 1890.

[SEAL.] JAMES ANDERSON,
Clerk of the Circuit Court for Montgomery County.

I, John J. Vinson, associate judge of the 6th judicial circuit of the State of Maryland, do hereby certify that I have carefully considered the aforegoing certificate of incorporation, and I do hereby determine that said certificate is in conformity with law and proper to be recorded according to law.

JOHN J. VINSON,
Associate Judge of the 6th Judicial Circuit of the State of Maryland.

THE STATE OF MARYLAND.

I hereby certify that the aforegoing is a true copy of the original certificate of incorporation of "The Washington and Cumberland Railroad Company," filed for record in the office of the Secretary of State of Maryland on the 3rd day of February, 1890, and on the same day recorded in record book of incorporations, folios 272, 273, and 274.

In testimony whereof I hereto subscribe my name and affix the seal of this office on the fourteenth day of May, in the year of our Lord eighteen hundred and ninety.

[SEAL.] E. W. LECOMPTE,
Secretary of State of Maryland.

CHAPTER 66.—PASSED FEB. 28, 1890.

AN ACT to amend the charter of the Washington and Cumberland Railroad Company, a corporation formed under article 23 of the public general laws of the State, title "Corporations."

SECTION 1. Be it enacted by the General Assembly of Maryland, that The Washington and Cumberland Railroad Company, a corporation formed under the provisions of article 23 of the code of public general laws of this State, title "Corporations," in addition to the powers possessed by it under its certificate of incorporation as prescribed by said article of the code of public general laws, shall have full power and authority to construct, complete, maintain, equip, and operate by steam or any other power a railroad with one or more tracks upon and along the tow-path or bed of the Chesapeake and Ohio Canal, or both in its discretion, or upon land of the Chesapeake and Ohio Canal Company adjacent to said canal, or upon other land acquired for the purpose from the terminus of said canal in the city of Cumberland, in Allegany County, to such point on said canal in or near the city of Washington, in the District of Columbia, as the corporation may select, with the right to connect with the lines of any other railroad or railroads within this State now existing or that may be hereafter incorporated and built and in the District of Columbia or elsewhere with which, in the judgment of said corporation, a connection may be advantageous and desirable, and shall have power to maintain and operate so much of the Chesapeake and Ohio Canal as shall not be occupied by its constructed road, and to charge thereon the same rates of toll and transportation as said Chesapeake and Ohio Canal Company has under its charter and amendments thereto, and shall also have power to construct, equip, maintain, and operate branch or lateral railroads through the counties of Montgomery, Howard, Anne Arundel, and Baltimore to any point within the city of Baltimore which the president and directors may select.

SEC. 2. And be it enacted, That the said Washington and Cumberland Railroad Company shall have power to issue mortgage bonds in such sums and form, and payable at such time, and bearing such rate of interest, not exceeding six per cent. per annum, not exceeding eight millions of dollars in the aggregate, as the president and directors shall determine, and shall also have power to issue capital stock to an amount not exceeding eight millions of dollars, of which such proportion may be made preferred, and such proportion common stock as the president and directors shall determine, and the creation of such mortgage or mortgages shall be authorized and directed by the votes of a majority of the stockholders, in person or by proxy, at a regular or special meeting thereof duly called.

SEC. 3. And be it enacted, That the said corporation shall have full power and authority to acquire by lease from the Chesapeake and Ohio Canal Company or by condemnation proceedings the title held and enjoyed by it to all its properties and water, and other rights, between Cumberland and West Seventeenth street, in the city of Washington, in the District of Columbia, according to the provisions of an act passed at this present session, entitled an "Act to authorize the Chesapeke and Ohio Canal Company to lease its Canal and all its works to the Washington and Cumberland Railroad Company, and to waive and release all the liens of this State upon said canal and all its properties in favor of said lessee;" and said corporation shall also have full power and authority to acquire by purchase, lease, condemnation or otherwise, such land adjacent to said canal as may be necessary or convenient for said corporation to possess, and shall also have the powers of purchase and condemnation of lands, property, or estate, real or personal, which it may reasonably require for its purposes which are conferred by the Code of Public General Laws, article 23, title "Corporations;" sub-title, "Railroad Corporations," and in addition to the powers conferred by said Code, it shall have power to alter the grade of any public or private road which its railroad may cross.

SEC. 4. And be it further enacted, That said corporation shall grant to the Western Maryland Railroad Company the right to connect with its railroads, and to interchange cars of said Western Maryland Railroad Company over its tracks upon the same terms which may be granted by said corporation to the most favored customer, and said corporation shall transport freight and passengers received from or destined to said Western Maryland Railroad Company at the same rates *pro rata* as those charged by it upon its own road; so that the freest exchange of transportation, both of freight and passengers, between said companies shall always be maintained at uniform and equal rates *pro rata* upon the roads of both of said companies.

SEC. 5. And be it enacted, That said corporation shall at no time be owned or controlled by any railroad company owning or operating a competing parallel or nearly parallel road, nor shall it be lawful for any such railroad company to purchase, acquire, or hold any of the stock of said Washington and Cumberland Railroad Company, and any acquisition by any such company of any part of said stock shall be absolutely void.

SEC. 6. And be it enacted, That in case of any of the holders of bonds issued under the act of eighteen hundred and forty-four, chapter two hundred and eighty-one, shall fail or refuse to accept the *pro rata* share of the sum provided to be paid by the said Washington and Cumberland Railroad Company to the treasurer of the State for the redemption of their said bonds in the act mentioned in section three of this act, or for any other cause, in the discretion of said president and directors of said company, it shall be lawful for the said Washington and Cumberland Railroad Company, or its attorney or attorneys duly constituted according to law, as the assignee of the mortgages executed by said Chesapeake and Ohio Canal Company, and of the other liens created by said company, to proceed to sell at public sale the whole of said Chesapeake and Ohio Canal and all its property, works, and water-rights under said mortgages and other liens, upon giving ninety days' notice of the time and place and terms of sale, to the highest bidder, at which sale it shall be lawful for said Washington and Cumberland Railroad Company to purchase said mortgaged property; such sale shall be reported to the circuit court of any of the counties of Allegany, Washington, Frederick, or Montgomery for ratification, and thereupon there shall be the like proceedings as are provided for by the Code of Public General Laws, article sixty-six, title, "Mortgages," and such court shall pass such orders or decrees touching such sale and the distribution of the proceeds thereof as may be right, with the same right of appeal to all the parties to said proceedings as is now allowed by law; and the faith of the State is hereby pledged that the General Assemby shall ratify and confirm any sale that may be made under this section, which shall be finally ratified and confirmed by the court.

SEC. 7. And be it enacted, That the principal office of said Washington and Cumberland Railroad Company shall be in the city of Baltimore.

SEC. 8. Be it further enacted, That the said Washington and Cumberland Railroad Company shall not be permitted to connect its tracks with the Baltimore and Ohio Railroad Company's tracks until the Baltimore and Ohio Railroad Company shall, by such action and in such form as may be determined by the attorney-general to be

sufficient for the purpose, surrender all exemption from taxation granted to it by its charter, the act of the General Assembly of Maryland of eighteen hundred and twenty-six, chapter one hundred and twenty-three, or by any supplement thereto.

SEC. 9 And be it enacted, That this act shall take effect from the date of its passage.

Approved February 28, 1890.

[GREAT SEAL.]

ELIHU E. JACKSON,
Governor.
R. F. BRATTAN,
President of the Senate.
JOHN HUBNER,
Speaker of the House of Delegates.

MARYLAND, *Sct:*

I, Spencer C. Jones, clerk of the court of appeals of Maryland, do hereby certify that the foregoing is a full and true copy of the act of the general assembly of Maryland, of which it purports to be a copy, as taken from the original law, belonging to and deposited in the office of the clerk of the court of appeals aforesaid.

In testimony whereof I have hereunto set my hand as clerk and affixed the seal of the said court of appeals this 27th day of March, A. D. 1890.

[SEAL.]

SPENCER C. JONES,
Clerk of the Court of Appeals of Maryland.

CHAPTER 188.—PASSED MARCH 27TH, 1890.

AN ACT supplemental to an act passed at this session of the general assembly entitled "An act to amend the charter of the Washington and Cumberland Railroad Company, a corporation formed under article twenty-three of the Code of Public General Laws of this State, title 'Corporations.'"

CHAPTER 1. Be it enacted by the general assembly of Maryland, That The Washington and Cumberland Railroad Company in addition to the powers possessed by it under its certificate of incorporation, and under the provisions of the act passed at the present session of the general assembly, chapter 66, entitled an act to amend the charter of the Washington and Cumberland Railroad Company, a corporation formed under article twenty-three of the Code of Public General Laws of this State, title "Corporations," shall have and possess full power to buy the Chesapeake and Ohio Canal, and its works, property, water-rights, and franchises of every description, at any sale that may be made by the board of public works, acting according to law, or at any sale that may be made under any decree of any court in this State or in the District of Columbia, and to hold, manage, control, enjoy, and make such use of the said canal and its works, property, water-rights, and franchises, when so bought, as the president and board of directors of the said Washington and Cumberland Company shall deem advisable.

SEC. 2. And be it further enacted, That the said Washington and Cumberland Railroad Company shall have full power to issue its capital stock in payment for lands or other property which it may purchase, and also in payment for work done and materials furnished therefor, and also in the purchase, payment or settlement of any liens, claims or demands against the said Chesapeake and Ohio Canal Company, which the president and directors of the said Washington and Cumberland Railroad Company shall think proper to purchase, pay or settle, upon such terms as may be agreed on between the company and the owners of such land or other property, or between the company and any contractor or other person doing work or furnishing materials, or both, or between the company and the owners of such liens, claims or demands against the said Chespeake and Ohio Canal Company. Provided, That the board of public works of this State shall not accept any of the stock of said Washington and Cumbland Railroad Company in payment for any property belonging to this State, unless the said sale shall be subject to acceptance or rejection by the succeeding legislature of this State. And it shall be lawful to provide by agreement, approved by a general meeting of the stockholders of the company, and recorded in the office of the secretary of State, that the stock so issued shall have such preference or priority over the rest of the capital stock of the company, or over subsequent mortmortgages and encumbrances, or both, as the stockholders at such meeting may authorize.

SEC. 3. And be it enacted, That this act shall take effect from the date of its passage.

Approved March 27th, 1890.

[GREAT SEAL.]

ELIHU E. JACKSON,
Governor.
R. F. BRATTAN,
President of the Senate.
JOHN HUBNER,
Speaker of the House of Delegates.

MARYLAND, *Sct:*

I, Spencer C. Jones, clerk of the court of appeals of Maryland, do hereby certify that the foregoing is a full and true copy of the act of the general assembly of Maryland, of which it purports to be a copy, as taken from the original law, belonging to and deposited in the office of the clerk of the court of appeals aforesaid.

In testimony whereof I have hereunto set my hand as clerk and affixed the seal of the said court of appeals this 28th day of March, A. D. 1890.

[SEAL.] SPENCER C. JNES,
Clerk Court of Appeals of Maryland.

O

51st Congress, 1st Session. | SENATE. | Report No. 1676.

IN THE SENATE OF THE UNITED STATES.

September 2, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11687.]

The Committee on Pensions, to whom was referred the bill (H. R. 11687) increasing the pension of Mrs. Clementine Fink, have examined the same and report:

The report on which this bill was passed by the House is concurred in, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11687) granting a pension to Mrs. Clementine Fink, submit the following report:

Captain Fink was the husband of claimant, and served as a private soldier in the Florida war and was sergeant-major of the Eighth Regiment. He afterwards served in the Mexican war, and was breveted lieutenant for meritorious conduct at the taking of the City of Mexico, where he received three severe gunshot wounds which disabled him from active service for six months.

Captain Fink was breveted second lieutenant for gallant and meritorious service in lead ng the attack on the Heights of Chapultepec, being the first man over the ramparts. He was promoted captain, and in 1861 died while in the service in the State of Michigan.

The claimant is drawing a pension of $20, the usual amount given to the widow of a captain, but this claimant is now seventy-two years of age, very feeble and poor, and has no means of support but that sum, which is inadequate for that purpose, and the increase is recommended by O. B. Wilcox, brigadier-general, who is acquainted with the facts in this case as well as the parties.

The bill is reported favorably with a recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1677.

IN THE SENATE OF THE UNITED STATES.

September 2, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany H. R. 11569.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. 11569) to amend certain sections of the Revised Statutes relating to lotteries, and for other purposes, have considered the same, and have adopted the report on Senate bill 4323, which is as follows:

The bill is based on the conceded power of the Government to determine what character of matter may be sent through the mails; and its purpose is to protect the general welfare and the morality of the people against the pernicious effects of lotteries. The purpose here expressed is one of great public concern, and the duty underlying it was very forcibly expressed in the opinion of the Supreme Court of the United States in the case of Phalen *vs.* Virginia, 8th Howard, page 168 (of opinion), in the following language, viz:

> The suppression of nuisances injurious to public health or morality is among the most important duties of Government. Experience has shown that the common forms of gambling are comparatively innocuous when placed in contrast with the wide-spread pestilence of lotteries. The former are confined to a few persons and places, but the latter infests every class; it preys upon the hard earnings of the poor; it plunders the ignorant and the simple.

This case sustains both the power and duty of Government to interfere, by such means as the bill which the committee herewith reports, for the protection of the morals and well-being of the people.

The policy of the bill is in perfect harmony with the action of nearly every State in the Union. Lotteries have been and are under the almost universal ban of the States. Of the forty-two States only three have failed to denounce lotteries and endeavor to protect the citizens from their baneful effects.

The intent of Congress to exclude letters, circulars, and other matter from the mails which relate to lotteries is evidenced by the several acts heretofore passed in connection with this matter. It is also evident that it was the intent of Congress to provide the Postmaster-General with the authority and the means to execute the several statutes. Experience, however, has demonstrated that past legislation is inadequate to this object, and that without further and more forcible legislation the use of the mails by lottery companies will continue to grow in a greater ratio than it has in the past. Nearly all of the small concerns that a few years ago prosecuted lottery business in the different States of the Union have gone out of existence and given place to the Louisiana State Lottery Company, the giant monopoly which not only works over the fields heretofore occupied by the smaller companies, but has extended its business until it has reached enormous and alarming proportions. It is estimated that this company mails through the Washington post-office, in the District of Columbia, probably not less than 50,000 letters per month, and that its mail deposits in the city of New Orleans will amount to five or ten times as much more. All this matter sent out under cover of the seal contains lottery circulars and lists of lottery draw-

ings, all of which is declared to be non-mailable under the law. But it goes without let or hindrance, because under existing statutes it seems impossible to obtain proofs of their true character. The object of the proposed bill is to provide further opportunities for obtaining information upon which prosecutions for frequent, and indeed unlimited, violations of the law may be more successful.

The power of the courts and of the Postmaster-General over lottery mails of all kinds is contained in three sections of the Revised Statutes, with the acts amendatory thereto. The first (section 3929, as amended by the act of July 12, 1876, section 2, 19 Stats., page 90) provides that "no letter or circular concerning lotteries, so-called gift concerts, or other similar enterprises, offering prizes, or concerning schemes devised and intended to deceive or defraud the public for the purpose of obtaining money under false pretenses, shall be carried in the mail."

To prevent this, a fine of not more than $500 and not less than $100, with the cost of prosecution, was provided for against any person who shall knowingly deposit or send anything to be conveyed by mail in violation of this section. Frequently, since the enactment of this law, different Postmasters-General have sought information and advice from the Attorneys-General with a view of ascertaining the full extent of the power of the Postmaster-General over lottery mails under the provisions of the section just quoted. The responses to these inquiries have been uniform to the effect that the statute, partly quoted above, is a penal statute which can be enforced by the courts only, and which conveys no power to the Postmaster-General to seize, detain, or withhold from transmission and delivery any ordinary letter, or packet, not *known* by him to relate to lotteries. Attorney-General Devens, in an opinion addressed to Postmaster-General Key, under date of April 30, 1878, held that the Postmaster-General is not authorized, under section 3894, Revised Statutes, to direct postmasters to withhold from the mails letters suspected to contain advertisements of lotteries; and, furthermore, that section 3895, Revised Statutes (which relates to the seizure of letters under certain circumstances), does not constitute a postmaster a seizing or detaining officer of suspected letters, and that it confers no power to seize or to detain, but merely directs the disposition to be made of letters after they *are* seized or detained for violations of statutory provisions. (Opinions of Attorneys-General, vol. 16, p. 5.)

Accepting this construction of the law as correct (and it has since been confirmed by Attorney-General Garland, and perhaps others), it is evident that the Postmaster-General's ability to purge the mails of this class of matter, although it is declared to be non-mailable, is limited to unsealed circulars and similar matter not protected by the sanctity of the seal, and which for that reason can be inspected. If such unsealed matter were at any time found in the mail the only disposition that could be made of it is to withold it from delivery and treat it as dead matter, and the offending party—in other words, the person who deposited the contraband matter—could only be reached by the law when he could be identified as the person who deposited it in the mail. To obtain evidence as to the character of matter covered by a seal, and suspected to relate to lotteries, it is conceded that the power of the courts would have to be invoked through the medium of search warrants, for the highest legal tribunal of the country has decided, in one noted case, that of *Ex parte* Jackson (6 Otto, p. 727), that "the constitutional guaranty of the right of the people to be secure in their papers against unreasonable searches and seizures extends to their papers thus closed against inspection, wherever they may be. Whilst in the mail they can only be opened and examined under like warrant, issued upon similar oath or affirmation, particularly describing the thing to be seized, as is required when papers are subjected to search in one's own household. No law of Congress can place in the hands of officials connected with the postal service any authority to invade the secrecy of letters and such sealed packages in the mail; and all regulations adopted as to mail matter of this kind must be in subordination to the great principle embodied in the fourth amendment of the Constitution."

Thus it is evident that no law which Congress can pass would stand the test of the courts if it authorized any executive officer to open, detain, or withhold letters upon suspicion that they violated the law concerning lotteries, or other statutes relating to any other offense; nor is it proposed by the substitute bill herewith to extend the authority of the Postmaster-General, or to render insecure, by reason of unlawful searches or seizures, any correspondence of any kind whatever. One of the main benefits to be derived by the substitute bill, if it shall become a law, over and above that contained in existing statutes, is the provision which makes the act of mailing lottery letters and circulars a continuous offense, triable by the court in any jurisdiction through which they may pass or into which they may go. About all the written and printed matter relating to lotteries which now passes through the mail is deposited in the post-offices at New Orleans and Washington, the great bulk of it being mailed from the former city. Convictions under existing law, even where the proofs can be produced, are not only difficult, but are believed to be next to impossible, in the State of Louisiana, owing to the extended and diversified power of the Louisiana State Lottery Company, which it is claimed reaches juries and defeats

the ends of justice. It is not necessary to add that jurisdiction of the offense of mailing is now confined to the district including the post-office of deposit. By the provisions of the substitute bill, a letter mailed at New Orleans may be traced into any other State and identified by its delivery, so that if the act of mailing can be located upon any individual or individuals at said city, the offense may pass under the review of courts at the place of delivery, thus securing a fair trial in localities where the influence of the lottery is not established.

Other advantages to be derived from the provisions of the first section of the substitute bill are the extension of the penalty for the mailing of letters by the public to lottery companies, instead of confining it to the mailing of them by such companies to the public, as is now practically the case; the enumeration of the several things, as checks, money, etc., for the purchase of lottery tickets, the mailing of which is prohibited, thus bringing the force of the law to bear upon those whose contributions keep these swindling enterprises alive, and decreasing the motive to violate the law by increasing the number who are likely to be punished for such violation. A bold and daring company, abounding in subterfuges, accustomed to violating the law, and skilled in the art of avoiding detection, will not hesitate to commit innumerable offenses, while the citizen who respects the law, or is afraid of its majesty, will hesitate to take the chances of prosecution. Hence, as soon as it is known that the mailing of a letter to a lottery company which contains money or check for the purchase of its tickets is an offense against the law, punishable by fine and imprisonment, the number willing to take the risk will rapidly diminish.

The greater benefit, if possible, will be the closing of the mails to newspapers which contain lottery advertisements and lists of prizes, thus partially cutting off communication between the lottery and its customers, and reducing the number of its victims. In some States such advertisements are prohibited by State laws, and but little if any opposition is thereby provoked. Many of the ablest and most influential journals now advocate the denial of mail facilities to any publisher who will admit a lottery advertisement to his columns, and it is believed that an enactment by Congress to this effect will meet with the almost unanimous approval of papers of known standing and ability.

Another important feature, in a legal sense, of the first section of the substitute bill, is that violations of its provisions may be proceeded against by indictment or information, and that the extent of the punishment is within the discretion of the courts, and they can always be relied upon to deal properly with violators of the law.

Sections 3929, Revised Statutes, relating to registered letters, and 4041, Revised Statutes, relating to money-orders, authorize the Postmaster-General "upon evidence satisfactory to him that any person is engaged in conducting any fraudulent lottery, gift enterprise," etc., to instruct postmasters at any post-office at which registered letters or money-orders may arrive addressed to, and intended for, persons so engaged as aforesaid, to withhold the delivery of the one and the payment of the other. It will be observed, in these cases, that the law does not require the Postmaster-General to know anything of the contents of the registered letters, nor to be advised as to the purpose to be served by the postal money-orders, but gives him the power, whenever he is satisfied that the one is addressed, and the other made payable, to a person engaged in conducting schemes to obtain money by false means or false and fraudulent pretenses, to enforce its provisions, as stated above. It is not necessary, therefore, that he should break a seal, or cause a seal to be broken, or to do any other act of a questionable or prohibited kind; but simply permits him to cut off the delivery of said registered letters because they are presumed to contain money, and the payment of money-orders because they are presumed to have been sent for the purchase of lottery tickets.

Acting under the authority contained in these two sections, a former Postmaster-General issued an order, which operated particularly upon the postmaster at New Orleans, prohibiting the delivery of registered letters, and the payment of money-orders to lottery companies, and especially to M. A. Dauphin in his several capacities as a manager of the Louisiana State Lottery. That order has been strictly enforced since the date of its issuance, and is now enforced in all the post-offices of the country, but it does not accomplish the objects that Congress evidently had in view.

The Louisiana State Lottery Company met the order of the Postmaster-General by announcing that thereafter registered letters and money-orders could be sent to the New Orleans National Bank, and thereupon the Postmaster-General issued a subsequent order prohibiting the delivery of registered letters and the payment of money-orders to said bank. The bank sought an injunction of the court to restrain the postmaster at New Orleans from enforcing this order, which was granted, and from that time until the present such deliveries and payments have been made to that bank, without let or hindrance, for the reason that it was believed that the authority of the Postmaster-General, under the existing provisions of law, was not sufficient to justify him in declaring that a delivery to the bank was a delivery to the lottery company, and such a delivery as was prohibited by law.

The substitute bill proposes to cure these defects by including within its provisions any agent or representative of the lottery company acting as an individual, or as a firm, bank, corporation, or association of any kind, and declaring that the published advertisement by a lottery concern that remittances for it may be made to "any other person, firm, bank, corporation, or association * * * shall be held to be an acknowledgment of the existence of said agency by all the parties named therein." If enacted, it would permit the Postmaster-General to deny to any person, bank, or other concern, that acts as an agent of the lottery company, the benefits of the registry and money-order systems, and would result in compelling the lottery company to obtain remittances through express companies or other similar channel.

It is not the object of this report to debate the question as to whether lottery companies are inimical to public morals or of immoral tendency. The day is passed for such discussion. It is admitted, or probably not seriously denied, that the existence of such swindling schemes is promotive of the spirit of gambling, and results in serious disaster to many citizens. That Congress is willing to provide any remedy for the correction of these evils, within the letter and spirit of the Constitution, will be treated herein as an accepted fact; and the committee have, therefore, proceeded in its work with the view of providing a law which it is believed will place within the reach of executive officers, and within the jurisdiction of the courts, every means that can be adopted to crush out the baleful influences of these concerns, whether chartered by States or organized and protected outside of the laws.

Your committee append and make a part of this report the opinion of the Attorney-General of the United States recently submitted to them, done at the request of the committee:

DEPARTMENT OF JUSTICE,
Washington, D. C., July 21, 1890.

DEAR SIR: Yours of July 16, inclosing two Senate bills, Nos. 2768 and 568, in reference to lotteries, was duly received, and I have given such examination to these bills as my other duties would permit. I have not, of course, been able to give them that exhaustive examination that would enable me to speak with confidence of the constitutional question. At the same time I am unable to find that the provisions of these bills conflict in any way with the decisions which have been made upon this class of questions. In *Ex parte* Jackson, 96 U. S., 727; in Dauphin *against* Key, McArthur & McKay's Reports Supreme Court of the District of Columbia, 203; and in The New Orleans National Bank *against* Marchant, 18 Federal Reporter, 841, legislation of this character has been upheld, and by these decisions it seems to be settled that it is competent for Congress to authorize the Postmaster-General to refuse the use of the mails to any persons engaged in business of this character. The reason why the decision was against the postmaster in the last-cited case was that it was held by Judge Pardee that the Postmaster-General had failed to make the finding of facts which was necessary in order to give him jurisdiction to make the order denying such use of the mails. These decisions were made with reference to the statutes as they substantially now exist.

The proposed section, No. 3894, goes further, the principal addition being the provision making the mailing of the letter, circular, etc., a continuous offense to and including the place of delivery. I think there can be no question of the power of Congress to enact this provision, or at least there can be no question that it is competent for Congress to make the offense punishable as well in the district in which the post-office of destination is situated as that wherein the unlawful matter is mailed. The decision of the Supreme Court, at the last term, in the case of Charles Palliser, appellant, against the United States, No. 1538, is directly in point upon this question. In that case Palliser had mailed from New York, directed to the postmaster at Black Hall, Conn., a certain paper wherein he requested that postmaster to receive and distribute literature for his firm, giving credit for the postage, which, he Palliser, promised to pay when the literature was distributed. The question arose whether this was a crime punishable in the district of Connecticut, the mailing having been done, as stated, in New York. The Supreme Court held that it was. The inference from the decision is that he might be tried and punished either in New York or Connecticut, but the decision is direct that he might be tried and punished in Connecticut. Whether it is competent for Congress to make the offense triable and punishable in an intermediate district is perhaps not so clear.

Sections 3929 and 4041, as proposed, seem to me to be covered in principle by the decisions above referred to.

I think, also, the decisions in principle cover the provisions of the bill No. 568.

Very respectfully,

W. H. H. MILLER.

Hon. PHILETUS SAWYER,
United States Senate.

The bill is reported favorably, with a recommendation that it do pass.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1678.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 2, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8640.]

The Committee on Pensions, to whom was referred the House bill 8640 granting a pension to Elizabeth Abell, widow of George W. Abell, of the Twenty-second Regiment Indiana Volunteers, have examined the same and report:

That from the facts stated in the House report, which is attached hereto and made a part hereof, we believe this to be a meritorious measure and recommend the passage of the bill.

[House Report No. 2902, Fifty-first Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8640) granting a pension to Elizabeth Abell, submit the following report:

The applicant was the widow of one George W. Abell, deceased, who enlisted as a private in Company E, Twenty-second Indiana Volunteers, on September 8, 1862, and died at Murfreesborough, Tenn., on February 23, 1863, of pneumonia contracted in the line of duty. He left surviving him the widow, this applicant, and two minor children. Applicant was granted a pension which commenced with the death of her husband and ceased upon her remarriage to one Fielding Johnson. The pension was granted to the guardian of said minor children, which ceased in 1876, upon the youngest coming of age. That affiant's marriage proved unhappy, said Johnson failing to provide for her and treated her with violent cruelty until she was compelled, for self-preservation, to apply for and obtain a divorce, which was done within the last few years with restoration of the name of Abell. That she has resided in Jackson County, Ind., for many years, is a woman of good character, has no means of support whatever, and in her advancing years is not able to support herself.

Inasmuch as no one is drawing a pension on account of the services of said Abell, your committee recommend the passage of the bill.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1679.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 3, 1890.—Ordered to be printed.

Mr. MANDERSON, from the Committee on Printing, submitted the following

REPORT:

[To accompany Senate concurrent resolution authorizing the printing of 6,000 additional copies of the first annual report of the Interstate Commerce Commission, with the appendices thereto; 2,000 of which shall be for the use of the Senate and 4,000 copies for the use of the House of Representatives.]

The Committee on Printing, to whom was referred the above concurrent resolution, having had the same under consideration, make the following report:

There have been no additional copies of either the first or third annual reports of the Interstate Commerce Commission printed. Six thousand extra copies of the second annual report were printed under Senate concurrent resolution agreed to in the House February 17, 1889. The committee is of the opinion that there should be printed 6,000 additional copies of the first and third annual reports of the Commission, and therefore report back favorably the resolution to print additional copies of the first report with an amendment to print 6,000 extra copies of the third annual report, and as thus amended would recommend that it do pass.

The cost of the printing, as estimated by the Public Printer, will be about $1,678.50 for each report.

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51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1680.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 4, 1890.—Ordered to be printed.

Mr. DAWES, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany S. 4297.]

The Committee on Indian Affairs, to whom was referred Senate bill No. 4297, to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases, have had the same under consideration and report as follows:

The following is a history of the subject-matter of this proposed legislation, taken from a report submitted to the House of Representatives at its present session (H. R. Report No. 2786):

The Seneca Nation of New York Indians now occupy the Cattaraugus and Allegany Reservations in western New York.

The Allegany Reservation is 40 miles long, extending from the Pennsylvania line up the Allegany River, in the State of New York, and lying on both banks of the river, and is situate wholly in Cattaraugus County, in the State of New York, being about a mile wide on an average and contains 30,469 acres of land.

The other reservation, called the Cattaraugus Reservation, extends from Lake Erie up the Cattaraugus Creek for the distance of about 12 miles and lies principally in the counties of Erie and Cattaraugus, with a small portion in the county of Chautauqua, and contains about 21,680 acres of land; the present bill has nothing to do with this reservation.

There are about two thousand Indians on both of these reservations, there being about twelve hundred on the Cattaraugus Reservation and eight hundred on the Allegany Reservation. The Indians cultivate not to exceed 3,000 acres on the Allegany Reservation, and not to exceed 4,000 acres on the Cattaraugus Reservation, the rest of the lands being unimproved, grown up to brush and small timber, with occasional patches of pasture interspersed.

The United States never owned these lands, the title thereto with a large tract of other lands in western New York having been in the State of Massachusetts; and the Ogden Land Company (so called) as the grantee of that State now own, or claim to own, the pre emption right to both of these reservations; that is, said company claim to own the fee of the land subject to the Indian occupancy.

The Indians are governed by a constitution and laws of their own making. The constitution provides for the election annually of a president and sixteen councilors, and a clerk and treasurer; eight of said councillors being chosen from each reservation, and these officers compose the council of the Seneca Nation. The State of New York provides a counselor at law, who is appointed by the governor and confirmed by the senate, who is called the Indian attorney, and is paid by the State; and it is his duty to prosecute all actions in be-

half of the nation, and generally to look after the legal interests of the nation.

The State of New York supports, at its own expense, sixteen Indian common schools, all under the supervision of a competent superintendent. The attendance at all of said schools averages about 600 pupils on both reservations.

The State also supports an orphan asylum, where about 120 orphan children are cared for and educated. The Society of Friends also supports a large school on the Allegany Reservation, and the Indians have made considerable progress in civilization, some of them being quite intelligent.

About the year 1852 the Erie Railway had to pass through a portion of the Allegany Reservation, for the reason that it followed the valley of the Allegany River, leaving that valley where the village of Salamanca is now situated. Afterwards, about the year 1860, the Atlantic and Great Western Railroad was constructed, running from Cincinnati and connecting with the Erie at Salamanca. This road also had to pass up the valley of the Allegany River and through a portion of the Allegany Reservation. At the junction of these roads the two railroad companies erected round-houses, machine-shops, and depots, and of necessity employed a large number of men. These railroads leased the right of way and other necessary lands from the Seneca Nation for a period of ninety-nine years, and settled with the Indians to their satisfaction.

At Salamanca the Indians began to lease lands to white people employed by said railroads for village lots and afterwards to other people until in 1875 a large village had sprung up at that point, where a great deal of business is done, but the village was composed of hastily and cheaply constructed buildings on account of the uncertainty of the tenure and the invalidity of the leases. At that time, 1875, the villages of Vandalia, Carrollton, and Great Valley had sprung up on the reservation at railroad stations on the Erie, and the village of Red House upon the line of the Atlantic and Great Western, and Salamanca and West Salamanca at the junction of the two roads, as before stated.

All these villages are on the banks of the Allegany River, and people doing business with the railroads have to pass over a portion of the reservation to get to the railroad depots at these places. The Indians had, before 1875, leased more or less land to whites at all of these depots. Of course, under the statutes of the State of New York and of the United States all these leases were void, and although the whites and Indians got along fairly well, no one would build substantial structures upon any lease the Indians could give. This led to the passage of the act of Congress approved February 19, 1875 (see Statutes at Large, vol. 18). The act ratified existing leases and provided for their renewal for the period of twelve years and for further renewal.

The commissioners provided for in the act, in pursuance of section 3 thereof, surveyed these six villages, making a map of each village, and locating on the maps each lease respectively. All the villages so surveyed and bounded contain about 1,500 acres. After the passage of the act and the laying out of the villages aforesaid, the Buffalo, Rochester and Pittsburgh Railroad was built, which strikes the reservation at Salamanca and passes up the valley of the Allegany River and through the villages of Great Valley and Carrollton aforesaid, leaving the reservation at the last-mentioned place and passing on to Bradford and other points in Pennsylvania. Since the construction of that railroad the Western New York and Pennsylvania Rail-

road has been built, running along the valley of the Allegany River, through the entire length of the reservation, having a depot at Salamanca and the other villages above named. This railroad is upon the opposite side of the river from the other railroads before mentioned.

Salamanca is now the principal village, having by the last census over 6,000 inhabitants. It has a fine system of water-works costing $50,000, sewers, natural gas for fuel, and a plant for the manufacture of illuminating gas, substantial churches, a high school with buildings costing $40,000, a large tannery, saw-mills, lace factory, two national banks, and the usual industries that go to make up an active and enterprising town. Nearly all the business places are of brick, substantially built. The Allegany River has been bridged with two iron bridges costing $40,000. It is the railroad and business center of a large section of country simply on account of its location and in spite of the draw-backs incident to its land tenure.

The present bill proposes to extend the term of these leases from twelve to ninety-nine years—and in that respect only does it change the law of 1875—and it relates only to the lands embraced in the villages as surveyed and located in pursuance of said act of 1875. It is urged to the committee that the growth and prosperity of the town is retarded by the shortness of the term; that manufacturing on any extended scale or involving any considerable outlay is prevented; and that strangers, who would make desirable citizens, are kept away from the place. Your committee have no doubt that all this is true. It seems to your committee that the Indians would receive a great benefit from the growth of these villages, as it would tend to increase the value of their other lands, of which they now hold over 28,500 acres on this reservation alone, and it is to be remembered there are only about eight hundred Indians residing on this reservation.

The act of Congress above referred to is as follows:

[NOT OF GENERAL NATURE—No. 25.]

AN ACT to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all leases of land within the Cattaraugus and Allegany Reservations in the State of New York, heretofore made by or with the authority of the Seneca Nation of New York Indians, to railroad corporations, are hereby ratified and confirmed; and said Seneca Nation may, in accordance with their laws and form of government, lease lands within said reservations for railroad purposes.

SEC. 2. That the President of the United States shall appoint three commissioners, whose duty it shall be, as soon as may be, to survey, locate, and establish proper boundaries and limits of the villages of Vandalia, Carrolton, Great Valley, Salamanca, West Salamanca, and Red House, within said Allegany Reservation, including therein, as far as practicable, all lands now occupied by white settlers and such other lands as, in their opinion, may be reasonably required for the purposes of such villages; and they shall cause a return of their doings in writing, together with maps of such surveys and locations duly certified by them, to be filed in the office of the county clerk of the county of Cattaraugus, in said State, there to be recorded and preserved. The boundaries of said villages so surveyed, located, and established shall be the limits of said villages for all the purposes of this act.

SEC. 3. That all leases of land situate within the limits of said villages when established as hereinbefore provided, except those provided for in the second section of this act, in which Indians or said Seneca Nation, or persons claiming under them are lessors, shall be valid and binding upon the parties thereto, and upon said Seneca Nation for a period of five years from and after the passage of this act, except such as by their terms may expire at an earlier date; and at the end of said period, or at the expiration of such leases as terminate within that time, said nation through its councillors shall be entitled to the possession of the said lands, and shall have the power to lease the same: *Provided, however,* That at the expiration of said period, or the termination of said leases, as hereinbefore provided, said leases shall be renew-

able for periods not exceeding twelve years, and the persons who may be at such time the owner or owners of improvements erected upon such lands shall be entitled to such renewed leases, and to continue in possession of such lands, on such conditions as may be agreed upon by him or them and such councillors; and in case they can not agree upon the conditions of such leases, or the amount of annual rents to be paid, then the said councillors shall appoint one person, and the other party or parties shall choose one person, as referees to fix and determine the terms of said lease and the amount of annual rent to be paid; and if the two so appointed and chosen can not agree, they shall choose a third person to act with them, the award of whom, or the major part of whom, shall be final and binding upon the parties; and the person or persons owning said improvements shall be entitled to a lease of said land and to occupy and improve the same according to the terms of said award, he or they paying rent and otherwise complying with the said lease or said award, and whenever any lease shall expire after its renewal as aforesaid, it may, at the option of the lessee, his heirs or assigns, be renewed in the manner hereinbefore provided.

SEC. 4. That said Seneca Nation is hereby authorized, by resolution of its councillors, duly elected according to the laws and system of government of said nation, or in such other manner as said nation in council may determine, to lease lands within said villages, to which, by the laws or customs of said nation, no individual Indian or Indians, or other person claiming under him or them, has or is entitled to the rightful possession.

SEC. 5. That it shall be the further duty of the said commissioners to cause all lands within such villages now leased, as hereinbefore mentioned, to be surveyed and defined as near as may be, and to cause the same to be designated upon the maps of such villages hereinbefore mentioned and provided for. All leases of lands within said villages, whether now existing or hereafter to be made under the provisions of this act, shall be recorded in the office of the clerk of said county of Cattaraugus in the same manner and with like effect as similar instruments relating to lands lying in said county outside of said reservations are recorded by the laws of said State of New York. All leases herein mentioned or provided for shall pass by assignment in writing, will, descent, or otherwise in the manner provided by the laws of said State: *Provided, however*, That the rights of Indians in such leases shall descend as provided by the laws of said Seneca Nation.

SEC. 6. That all moneys arising from rents under the provisions of this act which shall belong to said Seneca Nation shall be paid to and recoverable by the treasurer of said Seneca Nation, and expended in the same manner and for the same purposes as are other revenues or moneys belonging to said Seneca Nation.

SEC. 7. That the courts of the State of New York within and for the county of Cattaraugus, having jurisdiction in real actions, and the circuit and district courts of the United States in and for the northern district of said State, shall have jurisdiction of all actions for the recovery of rents and for the recovery of possession of any real property within the limits of said villages, whether actions of debt, ejectment, or other forms of action, according to the practice in said courts; and actions of forcible entry and detainer, or of unlawful detainer, arising in said villages, may be maintained in any of the courts of said county which have jurisdiction of such actions.

SEC. 8. That all laws of the State of New York now in force concerning the laying out, altering, discontinuing, and repairing highways and bridges shall be in force within said villages, and may, with the consent of said Seneca Nation in council, extend to, and be in force beyond, said villages in said reservations, or in either of them; and all municipal laws and regulations of said State may extend over and be in force within said villages: *Provided, nevertheless*, That nothing in this section shall be construed to authorize the taxation of any Indian, or the property of any Indian not a citizen of the United States.

Approved, February 19, 1875.

The committee recommend the passage of the bill, with two amendments, taking away its compulsory features. It is the opinion of the committee that the Indians themselves should have some voice in the renewal of these leases, and the amendments proposed will secure to them the liberty they are entitled to in the disposition of their rights in their own lands.

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51st Congress, 1st Session. | SENATE. | Report No. 1681.

IN THE SENATE OF THE UNITED STATES.

September 5, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9317.]

The Committee on Pensions, to whom was referred the bill (H. R. 9317) granting a pension to Margaret M. Clements, widow of John Clements, a soldier of the late war, have examined the same and report:

That from the facts stated in the House report, which is hereto attached and made a part hereof, we believe this to be a meritorious measure and recommend the passage of the bill.

[House Report No. 1950, Fifty-first Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9317) granting a pension to Margaret M. Clements, submit the following report:

That the claimant is the widow of John Clements, late lieutenant in Company H, Eighty-third Regiment New York Volunteers, who was discharged in 1863 by reason of disability contracted in the service. Her claim for pension was rejected by the Pension Office in 1889 on the ground that the soldier's death, in 1869, from erysipelas, was not traceable to abscess contracted in the service. Dr. Owen D. Pomeroy, who attended soldier in his last illness, and in fact ever after his return from the war, testifies that soldier's death was due to his disability and weakness resulting from abscess in groin, contracted in the service. Margaret Winnie, James Winterbottom, and Jesse H. Farrell, neighbors of soldier, all testify to the continuing and increasing disability of soldier ever after his return from the Army. In view of the above your committee believe the death of soldier was clearly due to his Army service, and recommend the bill do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1682.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 5, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5348.]

The Committee on Pensions, to whom was referred the bill (H. R. 5348) granting a pension to Sarah A. Smail, blind and dependent sister of James H. Smail, a late soldier of the war of the rebellion, have examined the same and report:

That from the facts stated in the House report, which is hereto attached and made a part hereof, we believe this to be a meritorious measure and do recommend the passage of the bill.

[House Report No. 1499, Fifty-first Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5348) granting a pension to Sarah A. Smith, submit the following report:

The claimant is a dependent sister of James H. Smail, deceased, who was killed in battle at Iuka, Miss., September 19, 1862. The mother of the soldier drew a pension in her life-time on account of the death of the soldier, but she is now dead and no pension is being paid by the Government on account of the death of the soldier, he having left no widow or children. The claimant is now forty-four years of age and totally blind. She was depending on her brother for support in his life-time, and she has no means of support, but is depending on charity for a livelihood.

We recommend that the bill do pass, with an amendment.

51st Congress, 1st Session. } SENATE. { Report No. 1683.

IN THE SENATE OF THE UNITED STATES.

September 5, 1890.—Ordered to be printed.

Mr. Paddock, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9935.]

The Committee on Pensions, to whom was referred the bill (H. R. 9935) granting a pension to William Stover, late of Company I, Twenty-fourth Regiment of Iowa Infantry, have examined the same and report:

That they have examined the case fully, and find the facts as stated in the House report, and adopt the views therein expressed as the views of this committee.

HOUSE REPORT:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9935) granting a pension to William Stover, having examined and considered the same, report the same back to the House with a recommendation that it do pass.

William Stover was a soldier in Company I, Twenty-fourth Regiment Iowa Infantry, and served about three years.

He made application for pension in 1880 on the ground of chronic diarrhea, lung and heart trouble, and rupture, claiming that he incurred the rupture by a mule falling upon him near Helena, Ark., and that the other diseases were contracted by exposure in the Army in lying out nights in sleet and rain; that he has been disabled therefrom ever since.

The claim was rejected in December, 1888, on the ground that there was no record of rupture or disease of the heart or lungs, and that the evidence taken did not connect his complaint with army service, and that their existence at discharge was not shown, and that there was no evidence of chronic diarrhea since discharge.

We can not agree with the finding of the Department upon these facts, and believe that the evidence fairly shows to the contrary upon each one of them.

The evidence of the claimant himself is very full upon all of these points, and he is reasonably well sustained in regard to all of them. It may be said, as having a bearing upon all of the points, that the evidence is full and complete from neighbors, comrades, and family that he was a strong, healthy man previous to enlistment, and that he has had these various complaints ever since, and that he wore a truss after the alleged injury from the mule falling upon him.

The Adjutant-General reports that the hospital records are not on file, but the records show that he was in hospital in St. Louis, but no details are on file. The Surgeon-General reports that he was admitted to hospital steamer *City of Memphis* in 1863 with chronic diarrhea, several of his comrades testifying fully as to his sickness and diarrhea from exposure, and also that he complained of the other injury, and that he wore a truss after he returned from hospital at St. Louis, and did not do so before going there. These facts, in regard to his past condition and wearing of truss after he came home, is fully sustained by numerous witnesses.

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1684.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 5, 1890.—Ordered to be printed.

Mr. PADDOCK, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10679.]

The Committee on Pensions, to whom was referred the bill (H. R. 10679) granting a pension to Clara Reed, late widow of George Dustin, a private in Company F, Twenty-third Wisconsin Volunteers, have examined the same, and report:

The facts in this case are substantially stated in the subjoined House report, which is adopted as the report of this committee with the recommendation that the bill do pass.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10679) granting a pension to Clara Reed, having examined and considered the same, report the same back to the House with a recommendation that it do pass.

The claimant in this case was a widow of George Dustin, a soldier of Company F, Twenty-third Regiment of Wisconsin Volunteers, who died in June, 1864, and thereafter was allowed a pension as his widow.

In 1866 she remarried, at which time her pension ceased; this marriage was with one Hervis Thompson, who reported himself to her to be able and competent and willing to support her, and believing this she married him, but it turned out that he was neither able nor willing to support her and soon deserted her, leaving her in destitute circumstances and dependent upon her own labor for support. Afterwards, in September, 1871, she obtained a divorce from him by reason of his misconduct and lack of support and desertion. Upon obtaining this divorce she made no application for re-instatement on the pension list, but supported herself until she was again married; her said last marriage was with one H. M. Reed, who was at the time a locomotive engineer, in good health and earning good wages, but after a few years his health failed and he soon became helpless, and was for some years an invalid and became totally dependent upon others for support, and she herself had to labor for her own support and to aid towards his until his death in 1887. She herself is now an invalid, and is unable to work and is entirely destitute and dependent upon others for a living; these facts are all fully shown by affidavits, and so that there can be no question in regard to them.

We think the pension should be granted in this case, and that it is entirely within the line of precedent; and the fact of her second marriage, which is the only thing that can throw any doubt upon it, should not debar her. She was the widow of a soldier, who died under circumstances entitling her to a pension, which she received, and her second marriage was under circumstances that have always been recognized by this committee and Congress as entitling the widow to practically re-instatement, and we see no reason why she should be debarred from the fact that she did not seek to become a charge upon the Government, but rather was again married under circumstances that seemed favorable, but which have turned out with causes for which she was in nowise to blame, and which has left her in her old age an invalid, helpless, and poverty-stricken.

We recommend the passage of the bill.

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51st Congress, 1st Session. | SENATE. | Report No. 1685.

IN THE SENATE OF THE UNITED STATES.

September 5, 1890.—Ordered to be printed.

Mr. Paddock, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9934.]

The Committee on Pensions, to whom was referred the bill (H. R. 9934) granting a pension to Conrad McClain, late of Company F, One hundred and ninth Regiment of New York Infantry, have examined the same, and report:

Upon an examination of the evidence in this case the committee find the facts clearly set forth in the appended House report, and adopt it as their own:

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9934) granting a pension to Conrad McLain, having examined and considered the same, report the same back to the House with the recommendation that it do pass.

Conrad McLain was a soldier in the One hundred and ninth New York Regiment, being the regiment of Colonel Catlin and General B. F. Tracy, and he served therein about three years. He filed application for pension in 1886, claiming for gunshot wound in head and right fore-arm and chronic diarrhea, which was rejected on the ground that there was no pensionable disability for gunshot wound in head and no record of origin in service as to the other claims.

He was treated at Chester Hospital, at Laurel, Md., and at Harewood Hospital, Washington. The Adjutant-General's report shows that he was wounded, but does not show the details, and the Surgeon-General's report shows his hospital treatment for wounds. His colonel, Isaac S. Catlin, testifies as to his being ill with malarial fever and as to his being furloughed in 1862 on account of illness, and testifies to his wounds, and that one of them was incurred while he was recovering the colors of the regiment, the bearer of them having fallen mortally wounded, and also expresses the strongest belief in the merit of his claim, and that he has never recovered from his illness, and has a letter on file to General Tracy strongly recommending this claim.

Comrades also swear to his illness and injuries in the same way, and Sara A. Young, who was a nurse at the hospital at Laurel, Md., and took care of him testifies as to his wounds and that they were severe. It is also shown by the testimony of those with whom he has worked and associated since his discharge that he has suffered ever since with diarrhea and general debility, and that he has not been able to perform anything like full manual labor.

A medical examination was had at Maquoketa, Iowa, and the wounds were reported with a statement that they think it probable that his disabilities were incurred in service, but that there were no objective signs of disease in the rectum, but say that he is entitled to a rating for a wound in the head.

Your committee can not see wherein the ruling of the Department that there was no record and no proof of origin of complaint in service is justified; the proof seems to be entirely satisfactory upon all of these points; and the record discloses no ground upon which relief should be denied him, and the bill should pass.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1686.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 6, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8211.]

The Committee on Pensions, to whom was referred the bill (H. R. 8211) granting an increase of pension to Rebecca E. Simon, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 8211) granting increase of pension to Rebecca E. Simon, have considered the same, and report as follows:

William J. Simon, the claimant's late husband, entered the naval service of the United States June 16, 1864, as an acting assistant surgeon on board the *Princeton*, and after years of arduous service, during which he was successively promoted to all the intermediate grades, he was appointed surgeon, U. S. Army, April 1, 1885. He died November 26, 1888, while still in active service, and his widow was granted a pension at $30 per month under the general law.

She now petitions Congress to increase her pension to $50 per month, and in support of her petition proof is filed showing that she is without income or means aside from her pension, and she has two young daughters depending upon her for support.

In view of the long and valuable service of the claimant's husband and the fact that Congress has granted the same increase in many similar cases, your committee respectfully return the bill, with the recommendation that it do pass.

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51st Congress, 1st Session. | SENATE. | Report No. 1687.

IN THE SENATE OF THE UNITED STATES.

September 6, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 7897.]

The Committee on Pensions, to whom was referred the bill (H. R. 7897) granting an increase of pension to John Clark, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 7897) granting an increase of pension to John Clark, have considered the same and report:

The petitioner served as a private in Company F, Sixteenth United States Infantry, from March 31, 1847, to August 5, 1848. He is now a pensioner at $8 per month for service in the Mexican war, said pension having been granted under the general law upon proof of disability from rheumatism, rupture, and varicose veins.

In his petition for relief the claimant declares he is now too old and feeble to earn a support by manual labor, and that the diseases from which he suffers have existed since the war with Mexico.

Accompanying the bill are two petitions signed by a large number of citizens of Mulberry, Franklin County, Ark. These petitions set forth that the claimant is almost wholly unfitted for manual labor by reason of age and disability, and that his only source of income is his small pension. He possesses no property except a few tools and household articles. His age is sixty-three years and he has been known as an honest, hard-working man.

Your committee believe the case to be a meritorious one, and the bill is therefore reported back with the recommendation that it do pass.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1688.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 6, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11075.]

The Committee on Pensions, to whom was referred the bill (H. R. 11075) granting a pension to John B. Roper, late a lieutenant of Company A, First Regiment Illinois Volunteers, in Mexican War, have examined the same, and report:

That from the facts stated in the House report, which is attached hereto and made a part hereof, we believe this to be a meritorious measure and do recommend the passage of the bill.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 11075) granting an increase of pension to John B. Roper, have considered the same and report as follows:

The claimant was a first lieutenant in Company A, First Illinois Volunteers, and rendered a year's honorable service in the war with Mexico. While in said service he contracted chronic diarrhea and resulting piles. On account of the disability arising from these diseases he is now in receipt of a pension at the rate of $17 per month.

Two examinations by medical boards have been held in the claimant's case, and it is stated in the certificates of each that the claimant is, by reason of his pensioned disabilities and disease of the heart, totally incapacitated for the performance of any manual labor.

The Pension Bureau refused, however, to accept the disease of heart as a result of the diseases for which Mr. Roper is pensioned, and his claim for increase was, in consequence, rejected.

The claimant is now about seventy-five years old, partially paralyzed, and requires the constant care and attention of others. He has no property or means aside from his pension of $17 per month, and this amount, in view of his physical condition, is insufficient to support him.

The degree of disability existing is, in the opinion of your committee, sufficient to entitle this soldier to a pension of $30 per month, and we, therefore, recommend the amendment of the bill to allow that sum; also that the word "second" in line 5 be stricken out, and the word "first" be substituted therefor, and that with these amendments the bill do pass.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1689.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 6, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8016.]

The Committee on Pensions, to whom was referred the bill (H. R. 8016) granting increase of pension to John B. Reed, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8016) for the relief of John B. Reed, late lieutenant-colonel of the One hundred and thirtieth Regiment Illinois Volunteers, beg leave to make the following report:

We find that Col. John B. Reed organized a company of volunteers in August, 1862 in Bond County, Ill.; was elected captain of said company; that they were ordered to rendezvous at Belleville, and from there to Springfield, Ill., and attached to the One hundred and thirtieth Regiment Illinois Volunteers; that the said Reed was commissioned as major of said regiment and served in that capacity until July 5, 1864, when he was promoted to lieutenant-colonel of said regiment, vice James H. Mathemy, resigned; that said regiment participated in the Red River expedition at the battle of Mansfield; Colonel Reed, the only field officer present at that engagement, was severely wounded by a rifle ball passing through the upper lobe of the right lung and the entire body; that he was captured and taken to Tyler, Tex., as a prisoner of war; that upon his partial recovery he was paroled. He returned to the Union lines, was exchanged, and again took command of the regiment. Colonel Reed was the only field officer who remained with his regiment from the time of its organization to its muster-out.

The committee does not deem it important to follow this gallant soldier through all his services in the war of the rebellion, but from an examination of the history and roster of the One hundred and thirtieth Illinois, filed with the committee, we have no hesitation in saying that his conduct upon all occasions was deemed by his superior officers as meritorious, having received several promotions for gallantry on the field; that he receives now a pension of $25 per month for the gunshot wound hereinbefore mentioned; that while on duty at McIntosh Bluff with his men tearing down a log building he received an injury to his leg which caused the formation of varicose veins, and which disability is continued to the present time and is at times very serious, requiring the application of rubber bands, and is 2½ inches larger in diameter than the other leg, for which disability he has never applied for and receives no pension; that some years ago, as the remote effect of his wound, he had a very severe stroke of paralysis, from which, as appears by the affidavits of reputable physicians, he has never recovered and never will, and he is totally disqualified from performing any manual labor. He has been in moderate circumstances, but by long-continued sickness and his inability to attend to business has lost his property and is now very poor and unable to support himself and family. He is a man of excellent habits and standing in his community. We therefore recommend that the said bill be amended by stricking out the words "seventy-five" in line 8 of said bill and that the word "fifty" be inserted in lieu thereof, and that the bill as so amended do pass.

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51st Congress, 1st Session. | SENATE. | Report No. 1690.

IN THE SENATE OF THE UNITED STATES.

September 6, 1890.—Ordered to be printed.

Mr. Allison, from the Committee on Appropriations, submitted the following

REPORT:

[To accompany Senate resolution of July 3, 1890, in relation to the amount of appropriations made at the present session of Congress.]

The Committee on Appropriations, in compliance with the following resolution of the Senate, adopted on the 3d of July last, namely:

Resolved, That the Committee on Appropriations be, and it is hereby, directed to report to the Senate, as soon as may be, a statement of the gross amounts proposed to be appropriated in the several appropriation bills of this session, and appropriated in the appropriation acts already passed at this session of Congress, and also the gross amounts proposed to be paid from the Treasury in other public bills and acts of this session so far as the same can be conveniently ascertained—

submit the following report and statement:

The gross amounts appropriated by bills passed at the present session and approved to date, including the general deficiency bill not yet passed but estimated at $6,500,000, and all permanent appropriations, are $460,512,017.21, which, in the opinion of the committee, will not be materially increased by the passage of other bills. These amounts are made up as follows:

Regular bills passed	$314,987,703.56
Deficiencies passed	32,012,041.17
Miscellaneous bills passed	4,019,819.48
State agricultural colleges act (amounts for 1890 and 1891)	1,364,000.00
General deficiency, estimated	6,500,000.00
	358,883,564.21
Permanent appropriations	101,628,453.00
Total appropriations	*460,512,017.21

The committee present herewith for comparative purposes a tabular statement showing by bills the total appropriations provided at the present session for the fiscal year 1891, and the total appropriations for the fiscal year 1890, and the increase and reduction made by the bills for 1891 in those for 1890, and also submit a memorandum showing the

* The sundry civil act, in addition to this sum, makes indefinite appropriations for the payment of claims of soldiers for back pay, bounty, and commutation of rations which may be allowed during the fiscal year 1891. The amounts for this purpose can not be ascertained until audited, but, in House Ex. Doc. No. 116, present session, and in letter of Secretary of the Treasury of February 15, 1891, they are estimated in the aggregate at $724,000. There is also an indefinite amount appropriated by special act for purchase of site for the Washington City post-office, and a few other indefinite appropriations, unimportant in amounts, are provided for.

principal items of change, in what bills, and in what branches of the public service. The table and memorandum are as follows:

COMPARATIVE TABLE.

Table comparing by bills the total appropriations for the fiscal year 1891 *with the* —— *propriations for the fiscal year* 1890. ——

Title of bill.	Appropriations, 1891.	Appropriations, 1890.	Increase, 1891 over 1890.	Reduction, 1891 under 1890.
Agricultural	$1,799,100.00	$1,669,770.00	$129,330.00	.....
Army	24,206,471.79	24,316,615.73	.....	$110,143.94
Diplomatic and consular	1,710,815.00	1,980,025.00	.....	269,210.00
District of Columbia	5,769,444.15	5,682,409.91	87,034.24	.....
Fortification	4,232,935.00	1,233,594.00	2,999,341.00	.....
Indian	7,263,116.02	8,077,453.39	.....	814,337.37
Legislative	21,030,752.75	20,843,615.81	187,136.94	.....
Military Academy	435,296.11	902,766.69	.....	467,470.58
Navy	23,136,035.53	21,692,510.27	1,443,525.26	.....
Pension	98,457,461.00	81,758,700.00	16,698,761.00	.....
Post-Office	72,226,698.99	66,605,344.28	5,621,354.71	.....
River and harbor	24,981,295.00	.....	24,981,295.00	.....
Sundry civil	29,738,282.22	25,297,341.65	4,440,940.57	.....
Total	314,987,703.56	260,060,146.73	56,588,718.72	1,661,161.69
Deficiencies	*38,512,041.17	16,330,518.30	22,181,522.87	.....
Total	353,499,744.73	276,390,665.03	78,770,241.59	1,661,161.69
Miscellaneous	5,383,819.48	10,255,795.29	.....	4,871,975.81
Total regular annual appropriations	358,883,564.21	286,646,460.32	78,770,241.59	6,533,137.70
Permanent annual appropriations	101,628,453.00	108,691,055.95	.....	7,062,602.95
Grand total appropriations	460,512,017.21	395,337,516.27	78,770,241.59	13,595,740.65
	395,337,516.27	.....	13,595,740.65	.....
Net increase	65,174,500.94	.....	65,174,500.94	.....

* This amount for deficiencies includes for acts approved, $32,012,041.17, and for general deficiency bill pending an estimate of $6,500,000.

MEMORANDUM OF CHANGES IN AMOUNTS OF APPROPRIATION BILLS, 1891 AND 1890.

The following statement shows the more important items of increase and reduction made by the several appropriation bills for 1891 in those for 1890.

Agricultural bill.—The increase of $129,330 for 1891 over 1890 is made principally for the following purposes, namely: For collecting and publishing agricultural statistics, $75,000; for botanical investigations, including the establishment and maintenance of experimental grass stations, $20,000; for experiments in the manufacture of sugar from sugar-cane, sugar-beets, and sorghum, $25,000; for establishing an agricultural experimental station and farm on the Arlington estate, $20,000; and for the agricultural experiment stations in the several States, $75,000. Other minor increases, and a reduction in the amount for expenses of the Bureau of Animal Industry, are made, resulting in a net increase, as above stated, of $129,330.

Army bill.—The Army bill for 1891 shows a reduction from 1890 of $110,143.94.

Diplomatic and consular bill.—The bill for 1891 shows a reduction from 1890 of $269,210. This is caused mainly by the omission of the item of $500,000 for the protection of the interests of the United States in the Samoan Islands in the act for 1890, and including new items for 1891 for expenses of carrying out recommendations of the International

American Conference $175,750, and providing specific salaries for consuls at certain important places in lieu of fees.

District of Columbia.—The small increase of $87,034.24 in a bill carrying $5,769,444.15, is caused by increases for the fire department, the police department, street improvements, and for schools. Reductions are made in various items showing a net increase as above of $87,034.24.

Fortifications bill.—The increase of $2,999,341 for 1891 over 1890 is caused by appropriations for construction of gun and mortar batteries for defense of Boston harbor, $235,000; for New York, $726,000; and for San Francisco, $260,000; for procurement of land for site of fortifications and coast defenses, $500,000; for construction and machinery for Army gun factory at Watervliet Arsenal, $550,000; and for the general work of procuring improved heavy guns for fortifications and other works of defense.

Indian bill.—The bill for 1891 shows a reduction from 1890 of $805,321.23. The appropriations for 1890 included an extraordinary item of $1,912,942.02 for payment for Seminole lands. In the bill for 1891 various new items and increases of appropriation are provided for, as an item of $400,000 for payment to the Creek Nation; $350,000 for payment to the Chippewa Indians of Minnesota for flowage damages on account of building of reservoirs and dams on the Upper Mississippi; $150,000 advance payment to the Sioux Nation in Dakota, and $460,000 for Indian day and industrial schools. Other increases and various items of reduction are made, making the net reduction as above stated of $805,321.23.

Legislative bill.—The small increase of $187,136.94 in a bill carrying $21,030,752.75 is caused principally by additional clerical force provided for the Sixth Auditor's Office on account of large increase in money-order and other postal accounts; for the Navy Department on account of the construction of new ships, and for the Post-Office Department and the Patent Office on account of increased work therein.

Military Academy bill.—The bill for 1891 is less than that for 1890 by $467,470.58, occasioned by larger appropriations for 1890 on account of buildings, a new fire-proof academic building and gymnasium having been provided for. The appropriations for the general expenses of the Academy are about the same for each year.

Naval bill.—The increase of $1,443,525.26 for 1891 over 1890 is caused by increased appropriations for the construction of new ships of $890,000; for the improvement of the plants at various navy-yards for building and repairing iron and steel ships, and for construction of a timber dry-dock at Port Royal, S. C.

Pension bill—The increase of $16,698,761 for 1891 over 1890 is rather apparent than actual, as additional appropriations for 1890 have been made in deficiency bills at the present session in the sum of $25,307,732.35, making the total appropriations for the pension service for 1890, $107,066,432.35.

Post-office bill.—The increase of $5,621,354.71 for 1891 over 1890 is due to the growth and expansion of the postal service and occurs principally in the following items: For mail depredations, post-office inspectors, etc., $50,000; for compensation to postmasters, $400,000; for compensation to clerks in post-offices, $650,000; for rent, light, and fuel for post-offices, $121,500; for free-delivery service, $1,094,485; for star-route transportation, $162,000; for steam-boat transportation, $75,000; for railroad transportation, $2,001,275.65; for railway post-office car service and railway post-office clerks, $560,000; for mail bags and mail-

bag catchers and mail-locks and keys, $70,000; and for foreign mail service, $118,000.

Sundry civil bill.—The increase of $4,440,940.57 for 1891 over 1890 is caused by some new and necessary items of appropriation, as for expenses of the Eleventh Census, $1,750,000; for additional accommodations for the Public Printing Office, $250,000, and for a post-office building for the city of Washington, $250,000; and by the increased needs of existing branches of the public service, namely: Life-Saving Service, $42,225; engraving and printing, $80,000; light-house establishment, $91,000; Fish Commission, $46,000; transportation of silver coin, $40,000; quarantine service, $40,000; public land service, $299,000; armories and arsenals, $202,000; Congressional Library Building, $350,000; military posts, $117,000; artificial limbs and appliances for soldiers and sailors, $270,000; publication of records of the rebellion, $135,000; National Home for disabled volunteer soldiers, $660,898.53; aid to State and Territorial soldiers' homes, $70,000, and public printing and binding, $80,000. Some increases in other items, and various reductions and omissions of items embraced in the appropriations for 1890 are made, resulting in a net increase, as stated above, of $4,440,940.57.

River and harbor bill.—The amount of the river and harbor bill for 1891 figures wholly as an increase, as no appropriations for this purpose for 1890 were made. The amount appropriated for 1889 was $22,397,616.90. Since 1882, or the Forty-sixth Congress, but one river and harbor bill for a Congress has been passed, and the appropriations therefor have covered two fiscal years in their expenditure. In view of this custom, and in order that a fair and just comparison may be made between 1891 and 1890, one half of the amount appropriated for 1889 should be charged to 1890 and one half of the appropriations for 1891 should be carried to the year 1892. This being done, the amount for 1891 would stand at $12,490,647, and for 1890 $11,198,808.45, showing an increase for 1891 over 1890 of $1,291,838.55.

Deficiency bills.—The deficiency bills passed at the present session exceed in amounts those passed at the last session in the sum of $22,181,522.87. Two items of an unusual character swell the amounts of deficiency bills at this session, namely, for pensions, $25,307,732.35, and for expenses of the Eleventh Census, $3,325,302, showing that aside from these extraordinary and unusual appropriations, the general deficiency appropriations passed at this session are less than those for last session by $376,486.47.

Miscellaneous appropriations.—The appropriations made by miscellaneous bills and resolutions for 1891 are less than for 1890 by $4,871,975.81, and less than for three previous fiscal years, the miscellaneous appropriations for 1889 being $10,170,862.55; for 1888, $4,814,991.49, and for 1887, $9,989,410.19. The miscellaneous bills for 1890 covered unusual appropriations for the following purposes: For public buildings (special acts), $2,375,000; for protection of interests of the United States in Panama, $250,000; for commencing the work of taking the Eleventh Census, $1,000,000; for carrying out the agreement with the Muscogee (or Creek) Nation of Indians, $2,280,857.10; and for procuring the division of the Sioux Reservation in Dakota, $3,153,200.

Permanent appropriations.—The estimates and appropriations for this purpose for 1891 are $101,628,453, and for 1890, $108,691,055.95, a reduction from 1890 of $7,062,602.95, made up principally of the item of interest on the public debt.

The committee also present—in view of the fact that larger appropri-

ations are usually made at the long sessions of Congress than at the short sessions, and in order that a comparison of these appropriations may be had—a tabular statement of the appropriations made at the first session of the Fifty-first Congress, for fiscal year 1891, and at the first session of the Fiftieth Congress, for fiscal 1889, as follows:

Table showing appropriations made at the first session, Fifty-first Congress, and at the first session of the Fiftieth Congress.

Title of bill.	First session, Fifty-first Congress, appropriations, 1891.	First session, Fiftieth Congress, appropriations, 1889.	Increase, 1891 over 1889.	Reduction, 1891 under 1889.
Agricultural	$1, 709, 100. 00	$1, 716, 010. 00	$83, 090. 00	.....
Army	24, 206, 471. 79	24, 471, 300. 00	.....	$264, 828. 21
Diplomatic and consular	1, 710, 815. 00	1, 428, 465. 00	282, 350. 00	.....
District of Columbia	5, 769, 444. 15	5, 046, 410. 32	723, 033. 83	.....
Fortification	4, 232, 935. 00	3, 972, 000. 00	260, 935. 00	.....
Indian	7, 263, 116. 02	8, 263, 700. 79	.....	1, 000, 584. 77
Legislative	21, 030, 752. 75	20, 758, 178. 07	272, 574. 68	.....
Military Academy	435, 296. 11	315, 043. 81	120, 252. 30	.....
Navy	23, 136, 035. 53	19, 942, 835. 35	3, 193, 200. 18	.....
Pension	98, 457, 461. 00	81, 758, 700. 00	16, 698, 761. 00	.....
Post-office	72, 226, 698. 99	60, 860, 233. 74	11, 366, 465. 25	.....
River and harbor	24, 981, 295. 00	22, 397, 616. 90	2, 583, 678. 10	.....
Sundry civil	29, 738, 282. 22	26, 320, 804. 84	3, 417, 477. 38	.....
Total	314, 987, 703. 56	277, 251, 298. 82	39, 001, 817. 72	1, 265, 412. 98
Deficiencies	*38, 512, 041. 17	19, 563, 383. 26	18, 948, 657. 91	.....
Total	353, 499, 744. 73	296, 814, 682. 08	57, 950, 475. 63	1, 265, 412. 98
Miscellaneous	5, 383, 819. 48	10, 170, 862. 55	.....	4, 787, 043. 07
Total regular annual appropriations	358, 883, 564. 21	306, 985, 544. 63	57, 950, 475. 63	6, 052, 456. 05
Permanent annual appropriations	101, 628, 453. 00	115, 640, 798. 90	.....	14, 012, 345. 90
Total appropriations	460, 512, 017. 21	422, 626, 343. 53	57, 950, 475. 63	20, 064, 801. 95
	422, 626, 343. 53	.....	20, 064, 801. 95	.....
Net increase 1891 over 1889	37, 885, 673. 68	.....	37, 885, 673. 68	.....

* This amount for deficiencies includes for acts approved $32,012,041.17, and for general deficiency bill pending an estimate of $6,500,000.

51st Congress, 1st Session. | SENATE. | Report No. 1691.

IN THE SENATE OF THE UNITED STATES.

September 8, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9666.]

The Committee on Pensions, to whom was referred the bill (H. R. 9666) granting an increase of pension to Ransom E. Braman, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended is adopted, and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9666) granting an increase of pension to Ransom E. Braman, submit the following report:

The undisputed testimony of four reputable physicians and surgeons shows that Ransom E. Braman, who was a member of Company I, Eighth Regiment Ohio Volunteer Infantry, was wounded at North Anna River, Virginia, May 24, 1864, by a minie ball, which entered the upper part of the front of the left thigh, passing just inside of the bone and emerging on the back and outer part of the thigh, injuring and impairing the function of the nerves, vessels, and muscles of the leg so as to cause a chronic gangrenous condition of the great toe, complete loss of sensation of the entire foot and part of the leg, and inability to extend the foot upon the ankle, or to flex or extend the leg upon the thigh.

That the leg, in consequence of the inability to use it, has shrunk so that it measures on the thigh and calf 1 inch less than the other, while at the foot it measures 1 inch more than the right, owing to chronic inflammatory exudation. That the injury to the vessels and nerves is so near the hip-joint that it impairs the innervation and circulation of the parts below to that extent that any amputation of the leg or thigh would be inadvisable, an opinion concurred in by some of Ohio's most eminent surgeons. That for the last ten years he has had yearly attacks of acute inflammation of the foot and ankle that have confined him to his bed from two weeks to two months at a time, and that every few weeks he has had similar but lighter attacks. That he is not able to perform any manual labor. That his condition is immeasurably worse than if the leg was amputated and an artificial limb adjusted. That an artificial limb would be vastly more serviceable to him than his wounded leg; that a good artificial limb is worth ten of his, for with it, besides being able to travel and be on his feet several times more than at present, he would be free from the daily recurring pain, swelling, and discharge which now afflicts him and will soon cause his death.

In addition to the foregoing, his wife describes his condition as follows:

"My husband is suffering from a gunshot wound of the left thigh, * * * which affects his whole leg and foot so that at times he can scarcely walk, and every little while he is laid up so that he can not step, and we fear that every time he is taken down that he may die. Each year he gets more disabled, and the least attempt he makes to work lays him up for days, and then his suffering is intense. His foot swells up, and the big toe and down to the ball of the foot looks like a sponge full of holes, and filled up with bloody pus, which discharges nearly all the time. Physicians tell us the bones are decaying. Sometimes it gets almost black, and we fear blood-poisioning or gangrene."

The committee feel that the soldier is entitled to a greater pension than he would be if he had lost his limb. They therefore recommend that the bill do pass, amended as follows: In line 7 strike out "fifty" and insert "forty-five."

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1092.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 8, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2317.]

The Committee on Pensions, to whom was referred the bill (H. R. 2317) granting a pension to Anna McCreary, have examined the same and report:

The report on which this bill was passed by the House is concurred in and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2317) granting a pension to Anna McCreary, submit the following report:

The facts in this case are set forth in the report of the Invalid Pension Committee, Fiftieth Congress, as follows:

"The beneficiary of this bill is the widow of Robert McCreary, late private of Company D, One hundred and eighty-sixth Regiment Ohio Volunteers.

"The records show the enlistment and honorable discharge of the soldier, and his marriage to claimant.

"At Murfreesborough, Tenn., May 25, 1865, while in line of military duty he contracted chronic diarrhea; also diseased eyes and impaired hearing, at Chattanooga, Tenn., July, 1865, resulting in blindness and deafness (see evidence of G. A. White and William I. Smith, comrades).

"This disability continued after the soldier's discharge, and up to the time of his death (see evidence of George Doogan, John Holmes, H. W. Anderson, William Lane, W. H. Stutson, John Donovan, and John Sweeney, neighbors), and he received treatment therefor (see evidence of Dr. J. D. Edwards).

"In September, 1877, the soldier was in the employ of the Pittsburgh, Cincinnati and St. Louis Railway Company, at Xenia, Ohio, as a car repairer. On the night of September 13, 1877, while engaged in repairing a car which had been raised at one side by means of a jack, he lost his life in the following manner: The car being tilted over too far began to totter; his fellow-workmen called to him to beware of the danger. By reason of his deafness he did not hear the first cries, which were perfectly audible to his fellow-workman, William Lane; and on being called to again he tried to make his escape, but in doing so, by reason of his blindness, he started in the wrong way or direction, and fell or was knocked off a bridge by the falling car and killed (see evidence of John Sweeney, William Lane, and John Donovan).

"The Interior Department holds that his death was not primarily caused by his disability, but we think, under the circumstances, the death was clearly the result of his disability, and we recommend the passage of the bill."

Your committee likewise recommend the passage of the accompanying bill.

The bill is reported favorably, with a recommendation that it do pass.

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51st Congress, 1st Session. | SENATE. | Report No. 1693.

IN THE SENATE OF THE UNITED STATES.

September 8, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2318.]

The Committee on Pensions, to whom was referred the bill (H. R. 2318) granting a pension to Malinda Foreman, have examined the same and report:

The report on which this bill was passed by the House is concurred in and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2318) granting a pension to Malinda Foreman, submit the following report:

The facts in the case are set forth in the report of the Committee on Invalid Pensions of the Fiftieth Congress, which is as follows:

"The beneficiaries of the bill are the widow and children of William H. Foreman, late of Company H, Ninety-fourth Regiment Ohio Volunteer Infantry.

"The records show his due enlistment, his honorable discharge, the marriage to the claimant, and the birth of the children.

"The facts in the case are: That said William H. Foreman, at or near Nashville, Tenn., December 10, 1862, while in the line of military duty, incurred an injury to his left breast and internal injury by being thrown from his horse (see evidence of James Kyle, captain Company H, Ninety-fourth Regiment Ohio Volunteers, and D. T. Davidson, first lieutenant Company H, Ninety-fourth Ohio Volunteers). The disability continued after the soldier's discharge and up to the time of his death, May 20, 1883 (see evidence of Eliza Ary and Sarah Cavelle, neighbors), and he received treatment therefor (see evidence of H. R. McClellan, M. D., Xenia, Ohio). Prior to death, May 20, 1883, the soldier was suffering very severely from the injury to his left breast, and one Dr. Dillion was called in to prescribe for the injury. In the extreme and excruciating torture and suffering which the said soldier endured from said injury to his left breast, the said Dr. Dillion administered morphine in order to afford relief, and it is alleged that an overdose of morphine was administered.

"Although morphia was administered, yet the direct and positive cause of death was the injurry incurred on his left breast and internal injury while in the military service. (See evidence of H. R. McClelland, M. D., Xenia, Ohio, who is one of the ablest physicians of his city, who testifies that the morphine actually caused death, but that the soldier could not have lived more than a few days, when death would have resulted from his wound above described.)

"Under these circumstances we think the fact that death came to his relief a day or two before it would have done in the ordinary course of nature ought not to bar the claim of his widow for pension, and we recommend the passage of the bill."

Your committee likewise report favorably on the accompanying bill, and ask that it do pass.

The bill is reported favorably, with a recommendation that it do pass.

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1694.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 8, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4210.]

The Committee on Pensions, to whom was referred the bill (H. R. 4210) granting an increase of pension to John H. Grove, have examined the same and report:

The report on which this bill was passed by the House is concurred in and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4210) to increase the pension of John H. Grove, having fully examined the papers in the case, submit the following report:

John H. Grove was late a corporal in Company C, of the Thirty-fourth Regiment, Indiana Volunteer Infantry. He enlisted at Huntington, Ind., on the 28th day of August, 1861, for the term of three years, and was honorably discharged on the 29th day of September, A. D. 1863, at St. Louis, Mo., becauses he had lost his arm at the battle of Champion Hills, Mississippi, on the 16th day of May, A. D. 1863; arm amputated above the elbow on the 17th day of May, 1863.

On the 23d of September, 1863, he was granted a pension of $8 per month, which was increased June 6, 1866, to $15; June 4, 1872, to $18; June 4, 1874, to $24, and December 11, 1886, to $45 per month. Since that date his disability has slowly increased. He applied for a further increase on April 8, 1889, and showed by competent and sufficient evidence that by reason of suffering with constant pain in the stump of his left arm, and the extra strain upon his right arm, his right arm, right hand, right leg and foot are partially paralyzed. The evidence shows that the claimant suffers from a constant tremor and motion of right arm, hand, leg, and foot. His memory has failed; he has an impediment in his speech, so that he is not able to attend to any business, and he requires the aid of another person in dressing and eating. The stump of the arm which was amputated is short and irregular in shape and the cicatrix imperfect and sensitive so that he has never been able to wear an artificial arm.

His condition is not such as to require the constant aid and assistance of another person, and therefore be entitled to the rate of $72 per month under the general law as recently amended. There is no general law by which the claimant could have his pension increased to any sum intermediate between that rate which he is receiving and the rate for total disability. The evidence clearly establishes two things: First, that he is suffering from an injury incurred in active service and in the line of duty which disables him to a much greater degree than he is receiving a pension for; second, that his case is one not provided for by the general law. His condition is steadily growing worse, and he is in great danger of complete paralysis or death as a direct result of the injury for which he is pensioned.

The bill is reported favorably, with a recommendation that it do pass.

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1695.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 8, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4858.]

The Committee on Pensions, to whom was referred the bill (H. R. 4858) granting a pension to Abigail Hughes, have examined the same and report:

The report on which this bill passed the House is concurred in and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4858) granting a pension to Abigail Hughes, submit the following report:

Abigail Hughes was the widow of Benjamin J. Hughes, who enlisted November 19, 1861, as private in Company F, Seventy-fourth Regiment Ohio Volunteers, and was killed in battle of Stone River December 31, 1862. She drew a pension until her remarriage with one George Lacrone in October, 1870; the children of the soldier in the meantime having passed pensionable age. Her second marriage was an unfortunate one, as appears from the fact that she had to apply for a divorce, which was granted her at the October, 1879, term of the Greene County, Ohio, court of common pleas, on account of cruelty and abandonment by her said second husband.

The claimant is now nearly seventy years of age, has no property or income from any source, and being badly afflicted from rheumatism and heart troubles, is no longer able to earn her subsistence by manual labor, and consequently dependent upon her friends for support.

The case comes clearly within the well-established rule of Congress to provide for the dependent relatives of soldiers who lost their lives in defense of the country, and we therefore return the accompanying bill with the recommendation that it do pass.

The bill is reported favorably, with a recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1696.

IN THE SENATE OF THE UNITED STATES.

September 8, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4369.]

The Committee on Pensions, to whom was referred the bill (H. R. 4369) to increase the pension of Milton Barnes, have examined the same and report:

The report on which this bill was passed by the House is concurred in, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4369) to increase the pension of Milton Barnes, submit the following report:

Milton Barnes was late lieutenant-colonel in the Ninety-seventh Regiment Ohio Volunteer Infantry. He enlisted September 1, 1862, and was discharged on June 10, 1865; filed his application for a pension December 22, 1873; received his disability from a gunshot wound of the right shoulder and neck, received in action at Kennesaw Mountain, Ga., June 27, 1864. He was granted a pension December 22, 1873, at $10 per month, which was increased afterwards to $15, and in 1884 to $20.50, and is now receiving a pension of $30 a month, which clearly proves the constant increase of the disability and aggravation of the injury which at the present time has resulted in partial general paralysis.

The evidence as to the incurrence of the wound in line of duty and its continuance is very clear and fully satisfactory. His condition is such as not to require the constant aid and assistance of another person, which precludes him from obtaining a higher rate under the general law. The medical evidence on file before the committee consists of the affidavits of E. B. Fullerton, M. D., F. S. Waggenhals, M. D., and John Sadler, M. D., well known physicians of the city of Columbus, Ohio, of high professional standing, is to the effect that Mr. Barnes is suffering as the result of his wounds from such paralysis as that he is weak in mind and body, unable to do anything towards earning his own living; his gait is shuffling, his speech hesitating, and his nerves and vital forces of low degree. His condition is such that he is liable at any time to complete paralysis or death, as a result from his injury.

The bill is reported favorably, with a recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1697.

IN THE SENATE OF THE UNITED STATES.

September 8, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9054.]

The Committee on Pensions, to whom was referred the bill (H. R. 9054) granting a pension to Sarah McCormick, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 9054) granting a pension to Sarah McCormick, have considered the same and report:

The claimant's late husband, Jacob Rarey, was a private in Capt. Jacob Krider's company of the Seventh North Carolina Militia, war of 1812, and served from February 1 to September 4, 1814.

In her petition for relief the claimant declares that she is seventy years old and that she married the soldier, Jacob Rarey, in 1850, and he died the same year; that she remained a widow until 1860, when she was inveigled into marriage with one Hiram McCormick, who deserted her immediately and she has never seen nor heard of him since and she does not know whether he is living or dead. She declares further that she is old and infirm, with no near relatives to aid her, and is entirely dependent upon charity for support. She resides at Woodleap, Rowan County, North Carolina.

William A. Thomason, A. M. Rice, and thirteen other citizens of Rowan County, North Carolina, certify to the truthfulness of the facts set forth in the claimant's petition and ask that the pension prayed for be granted.

After a careful review of the facts your committee are of the opinion that the case is a meritorious one, and the bill is therefore reported back with the recommendation that it do pass.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1698.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 9, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10938.]

The Committee on Pensions, to whom was referred the bill granting a pension to Agnes R. Rice, have examined the same, and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10938) granting a pension to Agnes R. Rice, submit the following report:

Parson C. Rice was a soldier of Company C, First Wisconsin Cavalry, in the late war. He was a pensioner up to his death, which occurred March 29, 1885. He married this applicant June 26, 1876, and by her he left surviving him two children.

After the death of said soldier his said wife, Agnes R. Rice, applied for a pension, but found that said soldier had a wife living, to whom he had been married previous to his marriage with this applicant, but that said first wife was, long prior to the death of said soldier, married to another man, with whom she now lives as his wife. The evidence shows that this applicant, Agnes R. Rice, is a lady of excellent character, an exemplary Christian lady, and that she in good faith and in accordance with the forms of law married said soldier, and that she performed all the duties of a faithful wife without knowledge that her husband had a former wife living. In view of the fact that the first wife of the soldier had no issue by him and prior to his death married another, and that this applicant in good faith performed the duties of a faithful wife, bearing the soldier children, caring for him in sickness, and closing his eyes in death, your committee are of opinion that this bill should pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1690.

IN THE SENATE OF THE UNITED STATES.

September 9, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9840.]

The Committee on Pensions, to whom was referred the bill granting an increase of pension to Prentiss M. Fogler, have examined the same, and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9840) granting an increase of pension to Prentiss M. Fogler, submit the following report:

The claimant in this case, Capt. Prentiss M. Fogler, of Augusta, Me., enlisted August 9, 1862, at Portland, Me., in Company I, Twentieth Regiment Maine Volunteer Infantry. Was mustered in as second lieutenant August 29, 1862, to serve three years or during the war. Was mustered in as captain February 6, 1863, and was discharged June 9, 1865.

The claimant is drawing a pension at the present time of $30 a month for disability caused by epileptic fits, the result of sun-stroke received while in line of duty near Petersburgh, Va., about the middle of July, 1864. Abner O. Shaw, late surgeon of the Twentieth Regiment, testifies as follows:

"Captain Fogler received a sun-stroke while superintending the building of bomb-proofs. Was taken to the field hospital in a state of insensibility and remained partly unconscious for several days. He was then seized with epileptic convulsions, caused by the sun-stroke before mentioned, and which have continued to occur every few weeks since that time, so that his mind is affected to such an extent as to incapacitate him for business, and the degree of his disability is total."

Atherton W. Clark, of Waldoboro, Me., late major of the Twentieth Maine, in an affidavit, states that "Captain Fogler, on or about the 14th day of July, 1864, near Petersburgh, Va., while superintending the building of bomb-proofs, received a sun-stroke and was taken to hospital in a state of insensibility, and remained unconscious several days. He was shortly afterwards taken with epileptic fits, which was reported by the surgeon to be from the effects of the sun-stroke before mentioned."

March 1, 1887, the claimant filed an application for increase of pension. The continuous attacks of fits for the past twenty-six years have injured his health to such an extent that he is unfit for any labor, and requires the constant attendance of some person when away from home or traveling, as he is liable at any time to have an attack, and there are no premonitory symptoms to warn of their approach.

The following persons, residents of Augusta, Me., and personally acquainted with Captain Fogler, have filed affidavits setting forth his increasing disability and their belief in his just claim for increase of penson:

Dr. L. J. Crooker, of Augusta, Me., in an affidavit dated April 26, 1890, says: "I have known Prentiss M. Fogler and have been his family physician for more than twenty years. It is known to me that he has epilepsy on an average about once in three weeks. I have known him to have six or eight attacks in twenty-four hours. He is not only not able to perform any manual labor, but much of the time requires the presence and care of another person.'

Dr. John O. Webster, of Augusta, Me., under date of April 24, 1890, says:

"Prentiss M. Fogler, late captain Company I, Twentieth Regiment Maine Volunteers, whose condition has been well known to me for many years, is suffering from epilepsy, resulting from sun-stroke in the service, to such an extent that it is not safe for him to go about alone, and requires the care of another person a great deal of the time.

* * * * * * *

"It is just one of those cases in which a special act of Congress seems to be the only way in which justice can be done."

Hon. Wm. P. Whitehouse, judge of the supreme judicial court of Maine, in an affidavit as to condition of claimant, closes by saying: "No pension in the gift of the Government can compensate him for his great injury and loss from this cause, but the highest rate should certainly be his."

In view of the facts presented in this case, your committee are of opinion that the rate of Captain Fogler's pension should be increased, and therefore return the accompanying bill with the recommendation that it do pass, amended, however, by striking out the words "seventy-two," in line 5, and inserting therein instead the word "fifty," and by adding: "*Provided*, That this act shall not be construed to prevent any further increase by the Pension Office to which the beneficiary may at any time become entitled."

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51st Congress, 1st Session. | SENATE. | Report No. 1700.

IN THE SENATE OF THE UNITED STATES.

September 9, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10429.]

The Committee on Pensions, to whom was referred the bill granting a pension to Uriah Bryant, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 10429) for the relief of Uriah Bryant, having had the same under consideration, submit the following report:

Mr. Bryant was a soldier in Capt. N. G. Foster's company and Colonel Cooper's regiment of Georgia Volunteers, in the Florida war. On April 9, 1851, he was given bounty-land warrant No. 2856 for forty acres of land, and on May 25, 1855, he was given bounty-land warrant No. 2767 for 120 acres of land. The evidence shows that this old man is now suffering great misery and in need of the actual necessaries of life. The committee append a letter from Hon. Joseph H. Sloss, a member of the Forty-second and Forty-third Congresses:

Huntsville, Ala., *September* 1, 1890.

Dear Sir: On the 21st May last you informed me that you had introduced bill for relief of Uriah Bryant, private, company of Capt. N. G. Foster, Colonel Cooper's regiment, Georgia Volunteers, Florida war.

He is in very bad condition, not being able to do manual labor on account of "misery in his feet and legs." He is an old man, and, if the Government ever intends to aid the old soldiers who served in the Indian wars, it is about time for Bryant to be attended to. I have told him what you have done and would be delighted to be able to tell him that some progress had been made, with hopes of success in the near future.

Yours, very truly,

Jos. H. Sloss.

Hon. Jos. Wheeler, M. C.,
Washington, D. C.

The committee also append a letter from Mrs. Martha S. Bryant, the wife of claimant, showing his distressed condition:

Madison Station, Ala., *August* 15, 1890.

Sir: I am Mr. Uriah Bryant's wife. He requested me to write you a few lines as he is too feeble to write himself. He is not able to do any work at all; he is almost laid up with a misery in his feet and legs and his right hip. We are almost destitute

of the necessaries of life. He is very anxious to know if there is any chance for his pension; he stands in great need of some assistance; please do all you can for him as a friend. If you wish any information about the business please state what it is and he will write you. I assure you Mr. Bryant is all right; He is the Uriah Bryant that fought in the Indian war. Please do all you can for his pension. Please let us hear from you as soon as you get this. I will close for the present.

Hoping to hear from you soon, your friend,

URIAH BRYANT and MARTHA S. BRYANT.

Mr. JOS. WHEELER.

The committee has also a letter written by Uriah Bryant in March last, but they are informed that he has since become so disabled that he can not write.

The committee report back the bill and recommend that it be passed.

O

51st Congress, 1st Session. | SENATE. | Report No. 1701.

IN THE SENATE OF THE UNITED STATES.

September 9, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8300.]

The Committee on Pensions, to whom was referred the bill granting a pension to John A. Anderson, have examined the same and report: The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8300) granting a pension to John A. Anderson, respectfully report as follows:

Said Anderson enlisted in Company I, Fifth Regiment, United States Artillery, on the 23d day of April, 1867, as a private, and was honorably discharged April 23, 1870. He testifies that in the line of his duty at Fort Jefferson, Fla., in July or August, 1868, he contracted yellow fever, causing spinal trouble and general debility; that he was treated for said fever at said fort, and that he has been in bad health and in a broken-down condition ever since.

Mr. William N. Carpenter testifies that Mr. Anderson was a sound, able-bodied man when he entered the service, and that he came home sick and broken down. Mr. Calvin J. Males testifies that his spine is affected, and was so affected when he came out of the service. Mr. Edward Dickerson testifies to substantially the same as Mr. Males. Mr. T. J. Shannon, a comrade, testifies as follows:

"I remember seeing him in hospital at Fort Jefferson with the yellow fever. The fever broke out there in September, 1867. I remember that after we got over the yellow fever, the claimant was on the sick report a good deal of the time. I think his complaint was weakness of the back, or something of that kind. I can call to mind that he complained of his back a good deal, and that when he lay down and would try to get up he would complain of his back and shoulders. I remember that he was no good as a soldier after he had the yellow fever."

His comrade, John M. Oxley, testifies:

"We were stationed at Fort Jefferson; the claimant was young and healthy; after we had been stationed at Fort Jefferson for about one year yellow fever broke out, any many of the soldiers were taken with it, among them the claimant. I had the fever at the same time. I saw claimant several times while he lay in the hospital with the fever."

Frank McClelland testifies:

"I believe claimant had the yellow fever, but it did not last long. We used to call him 'Joe Anderson, my Joe John.'"

Charles T. Eckman also says that Mr. Anderson had the fever in the fall of 1867, at Fort Jefferson.

It very clearly appears from the evidence in this case that when he entered the service he was a sound man. It also appears that he had the fever in the fall of 1867; that it injured his constitution; that he has never been well, and he is now in very bad condition. In fact, it also appears in the evidence that it affects his mind, since one of the special examiners reports that he was unable to testify without hav-

ing his wife assist him, and that he seems to have an imperfect memory of dates; and there is evidence also to the point that he was a man of good habits, and he has not contributed in any way to the aggravation of his misfortune by bad conduct.

He made application for a pension April 10, 1886, which was rejected in 1889, "on the ground that the evidence is insufficient to establish that the disease of spine, for which pension is asked, was incurred in the service and line of duty. The case has been in the hands of eight special examiners without definite results."

The papers on file in that case, and the records of the War Department, show a previous service of more than two years in Company A, Fifty-first Indiana; that he was treated in the hospital, during his latter service, at Fort Jefferson, Fla., but the disease is not stated; that he has been sick, yellow in complexion, and troubled with spinal disease ever since his discharge; that one board of medical examiners rated him as one-half disabled from spinal trouble, and another at three-fourths for spinal trouble and one-fourth for general debility.

Upon the whole case, your committee recommend the passage of the bill, amended by striking out the initial "H" in the applicant's name, in the title and bill, and inserting the initial "A," applicant's real name being John A. Anderson.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1702.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 9, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1279.]

The Committee on Pensions, to whom was referred the bill granting a pension to Mary E. Daniels, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1279) granting a pension to Mrs. M. E. Daniels, submit the following report:

In 1862 Mrs. M. E. Glines, now Mrs. M. E. Daniels, joined that noble corps of patriotic and self-sacrificing women known as "volunteer nurses." Entering the hospital at Alexandria, Va., she remained there during almost the entire war, caring for the sick and wounded soldiers with such tenderness and untiring devotion as to command from the sufferers there a testimonial, of which the following is an extract:

"We embrace this opportunity to express our most heartfelt gratitude and thanks to Mrs. Glines for the constant attention, as well as the kind, noble, and generous manner in which she has ministered to our wants, and ask that she may accept this as the most fitting testimonial we have in our power now to offer, in proof of our high esteem and admiration of her many virtues, and the entire satisfaction she has merited in her noble vocation."

Mr. J. G. Blaine says:

"During the war Mrs. Glines was very devoted and assiduous in her attention to wounded soldiers, and performed an amount of hospital service equaled by few and exceeded by none."

Surgeon-General Hammond says:

"I am well acquainted with Mrs. Mary E. Glines, who came here in 1862 as nurse in our military United States hospitals. I remember well her valuable services rendered to the sick and wounded, and beg leave to recommend her as worthy of consideration."

General O. O. Howard says:

"Mrs. Glines I know very well and esteem her highly. She labored hard among the sick and wounded soldiers and will long be remembered by them. She deserves well of this Government."

Your committee might add many other testimonials as pertinent and of equal value with the foregoing.

Mrs. Glines is now Mrs. M. E. Daniels; her husband is over ninety years of age, and she is old and feeble and destitute of means of support.

The proof shows she has been an invalid ever since the war, and now, when old age has come upon her and want is her portion, your committee believe that a grateful country should extend a generous hand to her, and we therefore recommend the passage of said bill after amending the same by adding after the name "Glines," in the sixth line, the words: "a volunteer nurse in the late war, and pay her a pension at the rate of twelve dollars per month."

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51st Congress, 1st Session. | SENATE. | Report No. 1703.

IN THE SENATE OF THE UNITED STATES.

September 9, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10121.]

The Committee on Pensions, to whom was referred the bill granting a pension to Mary L. Nash, have examined the same and report as follows:

The report of the Committee on Invalid Pensions of the House of Representatives is adopted as hereto appended, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10121) granting a pension to Mary L. Nash, submit the following report:

Mary L. Nash is the dependent sister of Samuel L. Nash, who died while serving as private in Company H, Thirty-second Massachusetts Volunteers. The mother of the soldier was a pensioner on account of his death and dependence upon him from February 11, 1865, to date of his death in August, 1889.

Two other brothers of the proposed beneficiary also lost their lives in the service of the Government, all three of them participating in the battle of Antietam, where one of them was killed.

The other brothers of Mary L. Nash were married at time of their death, leaving the entire care of the family to Samuel L. Nash, the father having died previous to the war without any property or other means of support.

From the evidence before your committee it further appears that Mary L. Nash has no property or income from any source; that she is a confirmed invalid by reason of nervous disease, from which she has suffered almost continuously from childhood, in consequence whereof she is unable to earn her support, and that there is no one legally bound to support her.

Although, as heretofore stated, three of this family gave their lives to their country, not one cent of pension is now paid to any one on their account. It would seem but simple justice to provide for the last remaining one of this patriotic family, in particular when it is shown that, unless relief comes to her soon, she must become a charge on the public.

Your committee, therefore, report favorably on the accompanying bill, and ask that it do pass, amended, however, by striking out the word "twenty" in line 8, and insert therein instead the word "twelve."

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1704.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 9, 1890.—Ordered to be printed.

Mr. PADDOCK, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10710.]

The Committee on Pensions, to whom was referred the bill granting an increase of pension to James H. Vosburgh, late private Company H, Forty-ninth Regiment Ohio Volunteers, have examined the same and report:

The facts in this case are correctly set forth in the report of the House committee, hereto annexed. Said report is adopted by this committee, and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10710) granting an increase of pension to James H. Vosburgh, submit the following report:

James H. Vosburgh served as private in Company H, Forty-ninth Ohio Volunteers, from August 15, 1861, to September 15, 1864, when he was discharged on account of a gunshot wound of right heel received in action at Dallas, Ga., May 27, 1864. He was pensioned on account of said wound and resulting ascending neurosis at $4 per month from discharge; at $8 from August 16, 1879; at $12 from April 15, 1881; at $24 from February 6, 1884; and since May 27, 1885, has been in receipt of $30 per month, because of inability to perform any manual labor. He applied for further increase in September, 1887, but his claim therefor has been rejected because he does not require that constant aid and attendance of another person contemplated by law to give title to the highest rate of pension provided for total helplessness.

The action of the Pension Office in rejecting the claim was proper under existing laws. It appears, however, that by reason of the severe nervous affection due to the gunshot wound of the heel pensioner's whole system had become affected. The functions of the stomach and heart are seriously impaired. The lower extremities are most of the time useless for the purposes of locomotion, the irritation of the spinal column and affection of the head causes much suffering, while the left shoulder and arm are much smaller than its fellow and too weak for any practical use. In consequence of these conditions he can not dress or undress himself and otherwise needs the almost constant aid and attendance of another person. Dr. W. F. Flack, the pensioner's family physician, says that Vosburgh is confined to his bed fully one-third of h s time; that there is no hope for improvement in his condition, and in fact he can live but a short time. He is very poor, and himself and family almost entirely dependent upon others.

Your committee are of opinion that the condition shown by medical and other evidence warrants the granting of an increase of pension, and therefore return the accompanying bill, with the recommendation that it do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1705.

IN THE SENATE OF THE UNITED STATES.

September 10, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10458.]

The Committee on Pensions, to whom was referred the bill (H. R. 10458) granting a pension to Thomas J. Reed, captain in Company E, Twenty-fourth Regiment Indiana Volunteers, Third Division, Thirteenth Army Corps, have examined the same and report:

That from the facts stated in the House report, which is hereto attached and made a part hereof, we believe this to be a meritorious measure and do recommend the passage of the bill.

[House Report No. 2722, Fifty-first Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10458) granting a pension to Thomas J. Reed, submit the following report:

The claimant entered the service as a corporal in Company E, Twenty-fourth Indiana Volunteers, on July 6, 1861; subsequently he was promoted to sergeant, and after a year's faithful service he attained the rank of second lieutenant, which was soon followed by promotions to the grade of first lieutenant and captain.

He tendered his resignation December 28, 1863, and was honorably discharged on surgeon's certificate of disability, which reads as follows, to wit:

New Iberia, La., *December* 10, 1863.

Thomas J. Reed, captain of Company E, Twenty-fourth Regiment Indiana Volunteers, having applied for a certificate on which to tender his resignation, I do hereby certify that I have carefully examined this officer and find that prior to his enlistment he had received a severe wound across the dorsum of the foot with an ax, severing the tendons and injuring the bones, and that since coming into the service he has once or twice received additional injuries of the foot, and that in consequence thereof he is, in my opinion, unfit for duty. Said injury is such as to materially injure the mobility of the foot and interfere very much with locomotion, becoming irritable and inflamed on marching and preventing him from discharging the duties of his position.

A. W. Gray,
Asst. Surg. in charge Twenty-fourth Regiment Indiana Volunteers.

The claimant filed an application August 29, 1888, for pension on account of injury of foot, and a medical examination, ordered by the Pension Bureau, shows him to be seriously disabled by said injury. The rating recommended by the board is total of his rank, which was first lieutenant at the time he alleges he was injured in the service. His allegation is as follows: That at Port Hudson, La., while leading his horse off a boat his horse slipped and fell on him, mashing his left foot. This was about August 1, 1862. He was in charge of transportation at the time, and there was no one with him that he can now find who knew the facts; for this reason he is unable to furnish the proof of origin required by the Pension Bureau.

The claimant's petition for relief by special act shows that he is fifty-five years old, in poor health, and without property or means of support. The petition is numerously signed by prominent citizens of the community in which the claimant resides, and additional proof in the shape of affidavits of disinterested parties is filed to show that his allegations are entitled to credit and that his condition is such as to require prompt relief. Proof of soundness and freedom from lameness at the time of his enlistment is also filed.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1706.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 10, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10031.]

The Committee on Pensions, to whom was referred the bill (H. R. 10031) granting a pension to William Tolle, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11003) granting a pension to William Tolle, submit the following report:

William Tolle is the father of Francis H. Tolle, late a member of Merritt's Missouri Cavalry. The soldier left surviving him a widow, who drew pension until May 9, 1872, when she remarried, whereupon his minor children were placed on the pension-rolls, and continued on the same until November 5, 1877, when the youngest became sixteen years of age, since which date no one has been drawing any pension on account of the services and death of aforesaid soldier.

The claimant is now nearly ninety years of age. His wife, not the mother of the soldier, is nearly totally blind. He has no income from any source, and being too old to labor, is dependent upon the charity of his friends. The soldier having left a widow and children surviving him, the father has no title under the general law, even if he could fully establish his dependence.

The case is one clearly covered by numerous precedents in this as well as former Congresses, and therefore your committee feel justified in reporting favorably on the accompanying bill, and to ask its passage.

O

51st Congress, 1st Session. | SENATE. | Report No. 1707.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 10, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1894.]

The Committee on Pensions, to whom was referred the bill (H. R. 1894) granting a pension to Silas Beezley, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives hereto appended is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 1894) granting a pension to Silas Beezley, have considered the same and report:

The claimant was a private in Capt. Jesse B. Browne's company of Maj. Kenny Dodge's battalion of mounted rangers, Black Hawk war, and served from July 24, 1832, to July 22, 1833.

He petitions Congress to grant him a pension by special act, declaring that about two weeks before his discharge from said service, and while guarding the frontier against hostile Indians, he was sent by Captain Browne to take medicine to a member of the company who had been taken sick with cholera while guarding beef cattle at Helena, a town on the Wisconsin River that had been burned by the Indians. The trip of 12 or 15 miles was made in the night, and led over logs, rocks, and gulleys. When he arrived at his destination, after the long and rough ride, he found that he had been badly ruptured, and the same has caused him much pain and inconvenience ever since. The claimant further declares that he was born October 17, 1810, and has no property of any description, but is living with his brother and exclusively upon his charity.

Dr. Hugh Logan, of Dalles City, Oregon, testifies that the claimant is suffering from hernia and rheumatism, and that from the testimony before him it is his belief that the said disability did originate in the service aforesaid.

Joseph Beezley, a brother of claimant, testifies that the claimant was ruptured when he came home from the said service; also that he has not been able to work for many years past, and is now in a very feeble and almost helpless condition. The witness states further that claimant has always been strictly temperate, and a peaceful, law-abiding citizen. The claimant has no property, and witness has for many years provided for his support.

The claimant's good character, dependence, and physical disability are testified to by a number of other citizens of the town where he resides.

There are many precedents for the allowance of pensions to the aged and dependent survivors of the old Indian wars, and your committee report the bill back, recommending its passage.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1708.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 10, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8028.]

The Committee on Pensions, to whom was referred the bill (H. R. 8028) granting a pension to Alexander Callison, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 8028) granting a pension to Alexander Callison, have considered the same and report:

The claimant was a private in Company B, Powell's Battalion Missouri Volunteers, and served from July 1, 1847, to November 9, 1848.

In an application for pension filed December 21, 1883, Mr. Callison declared that at Nebraska City, Nebr., in January, 1848, he severely froze his right foot, and in support of this allegation his comrades, James S. Pratt and M. Geiger, testified that the claimant incurred the disability from exposure on picket duty at the time and place alleged. Medical evidence filed by the claimant showed the existence for the past twenty years of a serious disability from frost-bite of right foot, and that amputation of the right great toe had been rendered necessary. The examining surgeons found a severe disability of the foot and rated the same at three-quarters total.

Evidence of the claimant's loyalty during the late war was also filed, but the Pension Bureau regarded the testimony as insufficient to establish the claim, and the claimant being unable to furnish additional proof the application was disallowed.

After the passage of the Mexican war service-pension act the claimant filed another application for pension, but the same was rejected on the ground that the organization to which he belonged did not serve in Mexico or en route thereto.

The claimant is now seventy-two years old and greatly disabled for the performance of manual labor.

The valuable services of Powell's Battalion during the period of the Mexican war have been repeatedly recognized by your committee in reports to the House, and a bill including the members of that organization within the provisions of the Mexican service act has been reported favorably to the House at this session.

The passage of the bill for the relief of Alexander Callison is respectfully recommended.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1709.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 11, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10457.]

The Committee on Pensions, to whom was referred the bill (H. R. 10457) granting an increase of pension to Presley Hale, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10457) granting an increase of pension to Presley Hale, has considered the same, and report as follows:

The claimant was a private in Company E, Sixty-fifth Indiana Volunteers, and rendered honorable service for nearly three years in the war of the rebellion. During the period of his service he contracted chronic diarrhea and disease of the eyes, and he is now a pensioner at $10 per month, under the general pension laws, on account of those diseases.

It appears that the claimant is now totally blind in both eyes—a condition which followed soon upon his being struck in the left eye by a nail which he was attempting to drive; this occurred in 1882, and total blindness of both eyes supervened in 1883.

The claimant has applied to the Pension Bureau for an increase of his pension, but the claim stands rejected on the ground that the loss of sight is not due to the disease of eyes which the claimant contracted in the service and for which he is pensioned, but is the result of the injury received in 1882.

The claimant contends (and your committee think reasonably) that if it were not for the pre-existing disease and impaired sight of his eyes the accident above referred to might have been avoided; it is further contended that the right eye would probably never have gone blind after the injury of left eye if it were not for the diseased condition of the eye from Army causes.

He is now wholly incapacitated for any manual labor, and, besides requiring constantly the services of an attendant, is entirely dependent upon others for support. He is reported by the special examiners, who investigated the case, to be a good and worthy man. His petition for relief is signed by a large number of the citizens of Selvin, Ind., where he resides. In view of the claimant's long and honorable service, his present deplorable condition of blindness and dependence, and the fact that he is already a pensioner on account of disease of eyes contracted in the service, your committee return the bill with the recommendation that it do pass, amended, however, by striking out the word "seventy-two" and inserting the word "forty," so as to make the pension $40 per month.

51st Congress, 1st Session. | SENATE. | Report No. 1710.

IN THE SENATE OF THE UNITED STATES.

September 11, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10709.]

The Committee on Pensions, to whom was referred the bill (H. R. 10709) granting a pension to Calvin Rasor, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10709) granting a pension to Calvin Rasor, have considered the same, and report as follows:

The claimant was a private in the "Rough and Ready" Company of the Fourth Indiana Legion Ohio Home Guards, and while participating with his command in an engagement with the enemy at Panther Creek, Kentucky, on or about September, 1862, he received a gunshot wound of the left temple.

The claimant's service and the fact that he received the wound of the head in the service and line of duty, are fully and clearly shown and established by the testimony on file at the Pension Bureau, but his application, filed in that bureau January 25, 1886, was rejected upon the ground that the wound was received while he was a member of a State organization and that he is therefore not pensionable under the general pension laws.

The claimant is about sixty-four years old, and, as shown by the evidence on file, a constant sufferer from pains in the head, defective vision, etc., the results of the wound of head.

In view of the facts as above stated your committee believe the case to be a proper one for the action of Congress, and the bill is therefore returned with the recommendation that it do pass.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1711.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 11, 1890.—Ordered to be printed.

Mr. DAVIS (by Mr. MANDERSON), from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11662.]

The Committee on Pensions, to whom was referred the bill (H. R. 11662) granting an increase of pension to Henry A. Barnum, have examined the same and report:

General Barnum entered the service early in the year 1861 as a captain in the Twelfth Regiment of New York Volunteers.

He was a gallant officer, and rendered conspicuous service throughout the late war.

This service was recognized by his promotion through all the grades from captain to brevet major-general.

At the battle of Malvern Hill he was shot through the body and left for dead on the field. He left the hospital before his wound was healed and fought in ten battles, in one of which he was again wounded in the arm.

The wound received at Malvern Hill has never healed. A silver tube has been inserted and is constantly used. He is under the constant medical attendance of Dr. Lewis Sayre, of New York City, the charge for whose services amounts to more each month than the pension the general is now receiving.

In consideration of the above facts your committee recommend the passage of the bill.

51st Congress, 1st Session. | SENATE. | Report No. 1712.

IN THE SENATE OF THE UNITED STATES.

September 11, 1890.—Ordered to be printed.

Mr. Davis (by Mr. Manderson), from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9244.]

The Committee on Pensions, to whom was referred the bill (H. R. 9244) granting a pension to Lewis W. Bloom, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9244) granting a pension to Lewis W. Bloom, submit the following report:

That the claimant enlisted in the Fifth Independent Battery, Ohio Light Artillery, on the 28th day of August, 1862; that he was honorably discharged therefrom June 22, 1865. Claimant made application for pension June, 1883, alleging that while in line of duty at Memphis, Tenn., in the year 1863, he contracted hemorrhoids, chronic prolapsus of rectum, heart disease, and sustained fracture of collar bone. This claim was finally rejected at the Pension Office July 6, 1888, for the following reasons: No record in Surgeon-General's Office of hemorrhoids and heart disease, and claimant fails to establish origin in service. The fracture of the clavicle rejected on the ground of no disability since 1883.

Claimant avers that he was first treated for the fracture of clavicle at regimental hospital for a few days, then was transferred to Jefferson Hospital, in charge of Dr. Burk, and that while there he first suffered from piles. That he was also treated, while there, for palpitation of the heart.

The Surgeon-General's records show that claimant was admitted to general hospital, Memphis, Tenn., May 9, 1863, with fracture of left clavicle, and returned to duty May 26, 1863. First lieutenant of claimant's battery writes to the Commissioner of Pensions that claimant was thrown from a horse and had his shoulder injured, and refers to Sergt. Victor Burnham, who was an eye-witness to the accident. Sergeant Burnham makes affidavit that at Memphis, Tenn., just before the Vicksburgh campaign, claimant, while in the strict line of his duty, was thrown from a horse and had his shoulder broken; he further testifies that claimant was an almost constant sufferer from piles.

The company reports on record show that claimant was sick in June and July of 1865, nature of sickness not stated. Dr. C. W. Campbell testifies that he has treated claimant for chronic heart disease and hemorrhoids at different times since 1879; that he is disabled for the performance of manual labor. J. D. Vance swears that he was personally and intimately acquainted with claimant at Cincinnati, Ohio, from the fall of 1865 to 1868; that claimant was afflicted with heart trouble; that he had frequently accompanied him to drug store for medicine for above disease; that his intimacy was again renewed in 1871, and that claimant was still suffering from heart disease. Emma L. Justice makes affidavit that claimant has suffered from heart disease and piles since 1865, often having to call for medical aid. James M. Sage testifies that he was intimately acquainted with claimant in 1868; that at the time he was being treated

for piles by Dr. Stage; that the doctor described it as a very bad case; that he has known him intimately since 1874, and believes claimant's disability to be increasing. Jonathan Pearson testifies that claimant has been suffering with heart disease and piles since 1868. At the last examination, April, 1888, the medical board rate claimant $\frac{4}{10}$ disability for piles, $\frac{4}{10}$ for prolapsus of rectum, and $\frac{6}{10}$ for disease of heart.

In summing up your committee find that the fracture of the clavicle is clearly established by the evidence and Surgeon-General's report; that the evidence of his sergeant as to incurrence of piles and testimony showing its existence immediately after discharge and its continuation to the present time warrants your committee in the belief that this is a meritorious case, and therefore recommend that the bill do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1713.

IN THE SENATE OF THE UNITED STATES.

September 11, 1890.—Ordered to be printed.

Mr. Davis (by Mr. Manderson), from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11375.]

The Committee on Pensions, to whom was referred the bill (H. R. 11375) granting a pension to Mrs. A. W. Ackley, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11375) granting a pension to Mrs. A. W. Ackley, submit the following report:

The proposed beneficiary is the mother of John T. Ackley, who enlisted June 21, 1861, as private in Company F, Fourth Regiment Michigan Volunteers, and died August 6, 1862, of wounds received in action.

He left surviving him a widow, but no minor children. The widow drew pension until her remarriage December 30, 1862.

The mother is now over eighty years of age, has no property nor income from any source, as is personally known to the member who introduced the bill in her behalf, and is suffering from infirmities incident to old age.

There being no pension paid to any one on account of the service and death of her soldier son, the committee believe that this poor and old mother should receive recognition at the hands of the Government in whose defense her only support sacrificed his life, and therefore report favorably on the accompanying bill and ask that it do pass.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1714.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 11, 1890.—Ordered to be printed.

Mr. DAVIS (by Mr. MANDERSON), from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10753.]

The Committee on Pensions, to whom was referred the bill (H. R. 10753) for the relief of Mary E. Hicks, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 10753) for the relief of Mary E. Hicks, have considered the same and report:

The committee believe that the act of June 9, 1880, was intended to include the widows of officers of the Army as well as those of the Navy.

Mrs. Hicks is the widow of Capt. Daniel Hicks, of the Adrian Guards, Michigan Volunteers, in the war with Mexico. Her pension was originally $25 per month, but subsequent general legislation resulted in a reduction to $20 per month.

The bill is returned with a favorable recommendation.

51st Congress, 1st Session. | SENATE. | Report No. 1715.

IN THE SENATE OF THE UNITED STATES.

September 12, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10075.]

The Committee on Pensions, to whom was referred the bill granting a pension to Montraville A. Harrington, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10075) granting a pension to Montraville A. Harrington, submit the following report:

That, from the evidence filed before them, the following facts clearly appear: That the claimant, now an old man of the age of eighty-five years, was the father of Fazilo A. Harrington, now deceased, late colonel of the Twenty-seventh Regiment Illinois Volunteers, who died January 1, 1863, at Murfreesborough, Tenn., from wounds received in action at the battle of Stone River, Tenn., December 31, 1862; that his widow has since remarried and his children are now over sixteen years of age, and that no one is receiving a pension on account of his death; that his mother died about fifty years ago. The claimant has never made application for pension at the Pension Office, for the reason that he is unable to show dependence upon his son at the time of his death; that he has no property, except about five acres of land; that the income of said land, produced by his own personal labor, is only between $200 and $300; that at this time, by reason of his old age and consequent feebleness, he is unable to perform manual labor, and the said land will furnish but little income over and above the cost of the cultivation of the same, and will be only a very small sum and wholly insufficient for his support.

The committee, believing this to be a just bill, would recommend the passage of the same.

51st Congress, 1st Session. | SENATE. | Report No. 1716.

IN THE SENATE OF THE UNITED STATES.

September 12, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10572.]

The Committee on Pensions, to whom was referred the bill granting a pension to Maria L. McCulloh, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

[House Report No. 2350, Fifty-first Congress, first session.]

The proposed beneficiary is the widow of J. Floyd McCulloh, who entered the service as captain of Company I, Second Regiment, Potomac Home Brigade, Maryland Volunteers, October 31, 1861, and served until mustered out May 29, 1865.

On June 30, 1883, he was granted a pension for right inguinal hernia at $10 per month from date of discharge, which rate was increased to $20 from April 3, 1884. He continued on the pension-roll until January 30, 1889, when his name was dropped therefrom on the ground that the disability had ceased to exist. He had also applied for lameness of right leg, loss of sight of left eye, and impaired hearing in right ear, but the origin of these additional disabilities is not satisfactorily established and no pension for same has been granted. The action of dropping was based upon the certificate of the Cumberland (Md.) Medical Board of December 12, 1888, which is as follows:

> Applicant is very shaky and handles his right leg as a paralytic. He has no hernia at present time. He wears a truss, but no effort at coughing causes any protrusion. * * * His motions on right side are shaky and uncertain. The grip of right hand is quite weak. It is the opinion of the board that he has some progressive organic disease of the spinal cord. He is wholly incapacitated for any manual labor; in fact he can not take care of himself. * * * There is no sign of disease about the inguinal ring. * * *

Every effort possible was made to restore his name to the pension-roll, but without success. Since his death his widow has renewed the efforts, but has also failed.

The committee will not attempt to reconcile the different findings of the surgeons who examined Captain McCulloh at different times and the sworn statements of a large number of reliable physicians who also examined him from time to time, but nevertheless believe that the rupture did exist and in a degree sufficient to warrant the original allowance of the claim.

The records of the War Department show that Captain McCulloh was treated for chronic diarrhea from July 10, 1864, to September 27, 1864. Although he never applied for pension on that account, yet, as will appear hereafter, he suffered from the effects of said disease even after discharge.

Dr. Olin, late post surgeon, Cumberland (Md.) Hospital, under date of December 12, 1889, testifies that Captain McCulloh reported at said hospital suffering from chronic diarrhea and hernia; that between the original diarrhea and the hernia a condition was generated which totally disabled him for all the purposes of life, even locomotion. The use of a truss must produce an injurious degree of pressure on the spinal marrow and give rise to paralysis of the limb, locomotor ataxia, and other injuries to the nervoes system by reflex action, especially when aided by chronic diarrhea as in this case.

Dr. W. W. Wiley testifies that he was acquainted with the captain for the last sixteen years of his life, during which time he frequently examined him. Captain McCulloh always complained of much pain in the right inguinal region and over much of the abdomen. He had a large right inguinal hernia, which was reducible, but he was never able to keep it entirely reduced. He also suffered from progressive locomotor ataxia, and for some time prior to his death was unable to walk even with assistance.

Dr. W. J. Craegin testifies that for ten years and more he was the family physician of Captain McCulloh, and also attended him in his last illness. He was a great sufferer from progressive locomotor ataxia during that time. The right leg slowly and gradually weakened, until its use became so impaired that it was the cause of many falls. The upper extremities appeared to retain their power. The condition of the right limb was, in the opinion of affiant, produced by the pressure of the truss on his spinal column and the pad over the inguinal ring, producing a condition of schlerosis of the cord. He died from lateral schlerosis of the lumbar portion of the spinal cord. The special examination shows conclusively that Captain McCulloh was an unusually robust man at the time of his entry in the service; that after three and a half years' service he returned home broken in health, and gradually grew worse until he became helpless.

The widow has no status before the Pension Office, because that office does deny the existence of the hernia, and has declined to accept the spinal trouble as due to the hernia, or in any other way chargeable to the military service.

Your committee, however, are of the opinion that the service is directly responsible for the death of claimant's husband and in the way indicated by the several medical witnesses in the case, and therefore report favorably on the accompanying bill, and ask that it do pass.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1717.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 12, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 7574.]

The Committee on Pensions, to whom was referred the bill (H. R. 7574) granting a pension to Mrs. Leonora Coon, have examined the same and report:

The report on which this bill was passed by the House is concurred in and is as follows:

The Committee on Pensions having under consideration the bill (H. R. 7574) granting a pension to Mrs. Leonora Coon, respectfully recommend that the bill pass.

Mrs. Coon is the widow of Denby L. Coon, who at the date of his death was receiving a pension for rheumatism, from which disease it is claimed he died in 1885. The origin of rheumatism in the service was proven in the claim for original pension, but the widow's claim was rejected by the Department on ground that soldier did not die of rheumatism. There are on file the affidavits of three physicians and one druggist, all of whom treated the soldier, and all agree in their affidavits in treating him for rheumatism and for nothing else, and the doctor and druggist who treated him in last illness swear that rheumatism was the cause of death. On special examination there are conflicting statements made.

John H. Passage, druggist of twenty years' standing, swears that he called on soldier several times a week. Saw him right before he died; foot and toe sore from rheumatism; toe amputated; otherwise in good health.

Dr. Nichols treated him from 1878 to 1884 for rheumatism, which he describes in his affidavit as inflammatory, but, on special examination, as gouty, malarial, and progressive. He thought death due to impairment of nutrition of the parts, resulting from obstruction of circulation due to previous rheumatism and varicosed condition of left leg.

Dr. Lyman B. Lester attended the soldier in last illness, and swears positively in original affidavit that he died of rheumatism. He amputated the toe of left foot where rheumatism was located. On special examination he swears that soldier died of lung trouble, but repeats his statement of treatment for rheumatism of left leg and foot. The special examiner reports him as a quack.

Dr. C. W. Slawson was the family physician from 1865 till 1870, and treated the soldier for rheumatism; was otherwise a healthy man.

The soldier's legal adviser, Judge John Lewis, swears that he saw him often, and he always complained of rheumatic pains in left leg and foot, and could not wear boot comfortably.

The soldier was sick in bed for three months prior to his death, during which time it is evident gangrene set in, and the left foot was rotting away and the big toe had to be amputated. All the physicians agree that there was no other disease that this condition could be attributed to except rheumatism. The soldier enlisted October, 1861, and was discharged for disability September, 1862.

The bill is reported favorably, with a recommendation that it do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1718.

IN THE SENATE OF THE UNITED STATES.

September 12, 1890.—Ordered to be printed.

Mr. Stockbridge, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany S. 712.]

The Committee on Indian Affairs, to whom was referred the bill (S. 712) entitled "A bill for the relief of the Stockbridge tribe of Indians in the State of Wisconsin," beg leave to make the following report:

With the exception of an unimportant amendment, which appears in italics in lines 1 and 2 of the House bill, the same measure was favorably reported to the Senate during the first session of the Fiftieth Congress. (*Vide* Report 2262, to accompany S. 1881.) The committee now adopts that report and recommends the passage of the bill.

The report is as follows:

In 1871 the Stockbridge and Munsee tribe of Indians was occupying a reservation in Shawano County, Wis., consisting of two townships of land. A portion of the tribe then desired to terminate their tribal relations and become citizens of the United States. Therefore Congress passed the act which this bill purports to amend. That act provided for the appraisal and sale of the reservation and improvements thereon under the direction of the Secretary of the Interior. Two rolls were to be made, one containing the names of those desiring to become citizens, and the other the names of those who wished to preserve their tribal relations. The funds derived from such sale, together with a fund then in the Treasury to the credit of the tribe, were to be divided between the citizens and the Indian parties in proportion to the number of each. The act also authorized the Secretary to reserve from sale a quantity of the reservation, not exceeding eighteen contiguous sections, as a new reservation for the Indian party—those who did not desire to become citizens. The Indian party, or what should remain of the Stockbridge and Munsee tribe after the execution of that law, was to be thereafter known simply as the "Stockbridge tribe of Indians."

This act was carried into effect. The Secretary of the Interior, under its authority, set aside eighteen sections of the old reservation for the use of the Indian party, and this little reservation they are now occupying. The roll, made in pursuance of the act, showed one hundred and twelve persons who determined not to accept citizenship, and who were thus legally determined to thenceforth constitute the "Stockbridge tribe."

The present bill provides that the eighteen sections of land comprising this small reservation shall be examined and appraised in 80-acre lots, the appraisal to describe each lot, stating the value of any improvements that may be thereon, and such other details as are necessary to insure justice to the individual members of the tribe in the further execution of the proposed law. After due notice in the newspapers, the lands are to be sold at public auction and the whole reservation to be disposed of in the same manner as the balance of the two townships were sold and disposed of under the provisions of the law of 1871. The individual members of the tribe, however, are permitted to select from the land, after it has been appraised, as follows: Each head of a family for himself or herself 160 acres, and for each minor child 80 acres, and each adult male, not the head of a family, 80 acres, and each female over eighteen years of age, and not included in any family, 40 acres. The land so selected by any individual to be charged to him or her at the fixed value at $2 per acre, and such improvements as may be on the same to be charged at the rate stated in the appraisal, it being provided that the value of the lands and improvements so selected shall not

exceed the estimated sum which, in an even distribution, would have fallen to the lot of the selectee.

After the selections are made and the balance of the land disposed of as provided, the fund arising therefrom, together with all money now in the Treasury of the United States to the credit of said tribe, with the interest thereon, and a sum of money, now in the keeping of the United States, recovered, by suits, for pine timber cut and removed from the reservation, amounting to about $3,557.16, is to be divided among the individuals of the tribe pro rata, except proper deductions are to be made where individuals have selected and had allotted to them portions of the land. Provision is made for taking the necessary enrollment.

Those who now make up the Stockbridge tribe are probably as well prepared to perform the duties of intelligent citizenship as any Indians in the whole country. For many years they have maintained schools on the reservation, and it is said that all the adults can read and write. They all speak the English language.

The bill is in line with the policy of Congress relating to the Indians. It provides for extinction of the tribe and the absorption of the individuals into the body of citizens. It terminates all questions of supervision and annuities, and relieves the State by providing that the land shall be subject to taxation.

We therefore report the bill to the Senate, with certain amendments which will appear, and, as thus amended, recommend its passage.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1719.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 12, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5812.]

The Committee on Pensions, to whom was referred the bill (H. R. 5812) granting a pension to Alonzo Hix, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5812) granting a pension to Alonzo Hix, submit the following report:

The claimant alleges that in July, 1863, and while serving as a private in Company D, Fifth Indiana Legion, he was injured in right breast and left hip by his horse falling upon him while on picket duty at the time of Morgan's and Hines's raid. This injury occurred at Anderson Township, Posey County, Ind.

The records of the adjutant-general of the State of Indiana show that the claimant was enrolled June 15, 1861, as a private in Company D, Fifth Regiment Indiana State Legion, and mustered out in February, 1865. Period of actual service, fourteen days.

A. P. Batson, of Tell City, Ind., swears he was captain of said company, and that on the 11th of July, 1863, he received an order from the colonel of the regiment to form a picket line from Cannelton to Grandview, in the State of Indiana, and another line from Troy to Hagadorn's, and it was with the latter division that the claimant one dark, stormy night received, while in the line of his duty, from the fall of his horse, an injury of his right breast and left hip. The next morning witness sent a physician to treat the claimant, who was totally disabled for duty from that time on by his injuries.

Other testimony shows that the claimant was a sound man when he entered the service, and that when he returned from his company he was suffering with the injuries received as above stated, and that he has been seriously disabled for the performance of manual labor ever since to the present time. His present condition is fully described in the testimony of Drs. William Cluthe and Francis A. Mitchell, and it is apparent that he can do but little if any manual labor.

It is further shown that the claimant's only property is a third interest in 76 acres of poor hill land in Perry County, Ind., and he has been obliged to give up farming altogether. He now lives about from place to place among friends and relatives.

A petition signed by Isaac Dunn (auditor of Perry County, Ind.), and seventy-nine others, asking that the relief prayed for be granted, accompanies the bill.

The claimant's application to the Pension Bureau was rejected on the ground that, being a member of the State militia, and not having filed and established his claim prior to the 4th day of July, 1874, he is barred by section 4693, Revised Statutes of the United States.

Your committee, however, regard the case as a proper one for the special action of Congress, and the bill is therefore returned with the recommendation that it do pass, amended by adding the words "the pension to date from approval of this act."

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1720.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 12, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8918.]

The Committee on Pensions, to whom was referred the bill granting a pension to Emeline J. Bushnell, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8918) granting a pension to Emeline Jane Bushnell, submit the following report:

The claimant in this case was an army nurse in the hospital at Quincy, Ill., for two years and nine months and received pay for only the last sixteen months of said service—the rest of the time without pay. The testimony shows that her services were very valuable to the Government and that her system became greatly shattered and is now greatly impaired, and that she has now no means of support but her own labor, and being past seventy-seven years of age is unable to perform much labor. She also lost a son in the service, but he left a widow who is likely now drawing a pension on that account, and the complainant's husband has been dead for many years.

We report the bill back with a recommendation that the same pass.

51st Congress, 1st Session. | SENATE. | Report No. 1721.

IN THE SENATE OF THE UNITED STATES.

September 12, 1890.—Ordered to be printed.

Mr. Teller, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany S. 2623.]

The Committee on Public Lands, to whom was referred the bill (S. 2623) to authorize the acquisition of lands for coke-ovens and other improvements, and for right of way for wagon-roads, railroads, and tram-ways in connection with coal mines, have had the same under consideration and respectfully report:

That large tracts of coal lands in the West lie in mountainous regions, often at high altitudes, and the out-crop of the coal veins on the mountain sides. It is practically impossible to erect coke-ovens and other plant necessary for the economical working of the mines upon the coal land itself, but such structures and improvements must be built and made elsewhere and upon more level ground.

Under existing laws it is impossible for owners of coal property to acquire title to such other acts of land as may be needed. The land is not coal land and can not be taken as such, nor can it be honestly entered under the homestead or other laws. For many years the statutes of the United States have given to all owners or pre-emptors of lode claims the right to acquire sites adjoining for quartz mills, reduction works, etc. The price to be paid under this bill is larger than the amount that the Government receives for any other land, except mineral lands, and your committee believe that such a bill will be of advantage both to the Government and the development of the coal industry.

Your committee therefore report the same favorably, with amendments, viz: strike out the words "one hundred and sixty" in lines 10 and 11 section 1, and insert in place of the same the word "eighty;" strike out all after the word "require" in line 19, section 1; strike out all of sections 3 and 4.

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51st Congress, 1st Session. | SENATE. | Report No. 1722.

IN THE SENATE OF THE UNITED STATES.

September 12, 1890.—Ordered to be printed.

Mr. Manderson, from the Committee on Printing, submitted the following

REPORT:

[To accompany Senate joint resolution (S. R. 84) and House concurrent resolution authorizing the printing of the twelfth number of the Statistical Abstract of the United States for the year 1889.]

The Committee on Printing, to whom was referred the above joint resolutions, having had the same under consideration, respectfully report them back with the recommendation that the former be indefinitely postponed, and that the latter be so amended as to authorize the printing and binding of one thousand copies additional for the use of the Bureau of Statistics, and as thus amended recommend that it do pass. When amended in conformity to this recommendation, the resolution will read thus:

Resolved by the House of Representatives (the Senate concurring), That there be printed, in addition to the usual number, sixteen thousand copies of the twelfth number of the Statistical Abstract of the United States for the year 1889, of which five thousand copies shall be for the use of the Senate, ten thousand copies for the use of the House of Representatives, and one thousand copies for distribution by the Bureau of Statistics.

The number of copies provided for and their distribution follows the precedents of previous years, except the additional one thousand copies proposed in the amendment; and the cost of the printing and binding will be about the same, $2,017, as heretofore.

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51st Congress, 1st Session. | SENATE. | Report No. 1723.

IN THE SENATE OF THE UNITED STATES.

September 15, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 7523.]

The Committee on Pensions, to whom was referred the bill (H. R. 7523) granting a pension to Calvin Gunn, have examined the same and report:

The report on which this bill was passed by the House is concurred in, and is as follows:

The Committee on Pensions, to whom was referred the bill (H. R. 7523) granting a pension to Calvin Gunn, have considered the same and report:

In his petition for relief by special act the claimant declares that he served as a sergeant in Capt. Isaac G. Messec's company, California militia (known as the "Trinity Rangers"), from October 14, 1858, to April 4, 1859. This company was organized pursuant to a proclamation issued by John B. Weller, then governor of California, calling for volunteers for the suppression of the Indians that were at that time engaged in pillage and murder in the counties of Trinity and Humboldt in said State; that while engaged in said service and during a severe conflict with the Indians, he (claimant) received a dangerous gunshot wound of the left side below the nipple, the ball passing through his body and coming out at the short ribs at the right side; that by reason of said wound he was obliged to give up his occupation of mining and farming in California and come east to St. Louis, Mo., where he is now engaged as a night watchman in the police department.

The claimant originally applied to the Pension Bureau, but his claim was rejected on the ground that the organization to which he belonged was not in the service of the United States.

The fact that the claimant received the wound at the time and under the circumstances herein set forth is clearly established by the testimony of Capt. Isaac G. Messec, who commanded the company, and was present when the wound was received.

The claimant's certificate of honorable discharge from the service, signed by Captain Messec, is on file with the papers.

Medical and other testimony on file shows the wound to be a severe one, and as a result, the claimant is permanently disabled for the performance of manual labor.

By an act of Congress passed March 2, 1861 (see p. 199, U. S. Statutes at Large, vol. 12), the State of California was re-imbursed by the General Government for the expenses incurred during said Indian war.

In view of all the facts, including the recognition by Congress of the service rendered, your committee are of the opinion that the relief prayed for should be granted, and the bill is therefore reported back with the recommendation that it do pass.

The bill is reported favorably, with a recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1724.

IN THE SENATE OF THE UNITED STATES.

September 15, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 3760.]

The Committee on Pensions, to whom was referred the bill (S. 3760) granting a pention to J. Seaton Kelso, have examined the same and report:

Dr. J. Seaton Kelso was assistant surgeon of the Second Wisconsin Cavalry. The record also shows that prior to his connection with the above regiment he was assistant surgeon of the Thirty-fourth Wisconsin Infantry. He was accepted as a sound and competent physician and surgeon, and he was honorably discharged. He applied for a pension, which was allowed June 3, 1883, at a rating of seventeen dollars per month for rheumatism, and in November following it was increased to thirty dollars a month, and in January, 1887, his name was dropped from the roll on the ground that his disability existed prior to his service. He appealed from this decision, and carried his case to the Secretary of the Interior, and the decision of the office was sustained by Assistant-Secretary Hawkins, who says:

> While I have read and re-read the voluminous mass of testimony taken by the several special examinations in this case, it would serve but little purpose, as it seems to me, to undertake to set forth even the substance of the great number of witnesses who have testified in this case and the great mass of evidence in regard to claimant's disability since his discharge.

Proceeding, the Assistant Secretary says:

> I am not satisfied from the testimony that it (his disability) was incurred in the service, and I am still unsatisfied as to whether it existed prior to his enlistment or subsequent to his discharge, and this is all I care to say in reference to this case.

Nevertheless, the action of the bureau was affirmed and the appeal dismissed.

Here was a mass of testimony confusing as to quantity, conflicting and contradictory upon every point at issue. The fact of his prior soundness is inferable from his acceptance, and from his constancy to his duties until he was discharged. He proved his case satisfactorily and was pensioned, and his claim was regarded with so much favor that he was raised to a sum adequate to his disability. Then, in his old and helpless condition, he was deprived of the means of subsistence, and an unlimited and confusing succession of special examinations ensued, the result of which, according to the comment of the Assistant Secretary, was conflicting and unsatisfactory, and he gave no weight to it.

In the opinion of the committee this conclusion was justified, but it is not quite consistent with an action that takes away from this old and helpless man his pension, his claim to which was proved to the satisfaction of the office, while the contrary was not proved to the satisfaction of the Secretary. Dr. Kelso was twice accepted as assistant surgeon. Two examinations failed to discover the prior disability charged upon him by the office. He is old, physically helpless, and himself and his family are entirely dependent upon charity. The bill is reported favorably, with a recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1725.

IN THE SENATE OF THE UNITED STATES.

September 15, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8381.]

The Committee on Pensions, to whom was referred the bill to increase the pension of Asenath Turner, have examined the same and report:

The report of the House committee is adopted, the bill reported favorably, and its passage recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 8381) granting an increase of pension to Asenath Turner, have considered the same and report:

The claimant's late husband, Samuel Dunham, was a private in the Connecticut Line, War of the Revolution, and she is now a pensioner at $12 per month on account of his said service.

The evidence accompanying the bill shows that the claimant is past eighty-four years of age, and that her sole property is $50 in bank to pay funeral expenses, a life interest in a small dwelling-house, and ten acres of unproductive land. This property is covered by a mortgage of $300, and the claimant has the interest to pay. She has an invalid son who is dependent upon her for support, and her only source of income is her said pension and the land referred to.

There are precedents for the allowance of the increase provided for in the bill, and the bill is therefore reported back, with the recommendation that it do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1726.

IN THE SENATE OF THE UNITED STATES.

September 15, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10557.]

The Committee on Pensions, to whom was referred the bill for the relief of W. G. Triece, have examined the same and report:

The report of the House committee is adopted, the bill reported favorably, and its passage recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10557) granting a pension to William G. Triece, submit the following report:

Claimant was a member of Company H, Tenth Pennsylvania Militia Infantry, and was wounded while engaging the enemy at or near Hagerstown, Md., September 18, 1862, by gunshot wound in his left hand, which entirely destroyed the use of three fingers and partial loss of index finger, and greatly destroyed the use of the hand.

His claim was rejected by the Pension Bureau because his regiment was a State and not a United States organization, but inasmuch as it was ordered out of the State, and was engaged in repelling the invasion of the enemy, your committee believe he should be pensioned, and therefore recommend the passage of the bill.

O

51st Congress, 1st Session. | SENATE. | Report No. 1727.

IN THE SENATE OF THE UNITED STATES.

September 15, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9529.]

The Committee on Pensions, to whom was referred the bill granting a pension to Emma G. Clark, have examined the same, and report:

The report of the House committee is adopted, the bill reported favorably, and its passage recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9529) granting a pension to Emma G. Clark, submit the following report:

That Emma G. Clark is the widow of William T. Clark, late first lieutenant of Company E, One hundred and forty-eighth Regiment Pennsylvania Volunteers; mustered September 1, 1862, and discharged for disability July 5, 1864. That said William T. Clark was granted a pension for severe chronic diarrhea contracted in the service.

The evidence shows that he was a constant sufferer from resulting stomach and lung troubles. Dr. Lawson, who attended him in his sickness and death on June 22, 1883, says he died of a complication of diseases, piles, disease of stomach and lungs, being greatly reduced and weakened by disease for which pensioned and which he contracted in the service.

There is also evidence of comrades and neighbors as to continuance of his disease contracted in the service and final death therefrom.

His widow is very poor and has been struggling hard by her own labor to support a large family of small children.

Your committee recommend the passage of the bill, with amendments as follows: Insert "G" in name so as to read "Emma G. Clark." Insert the word "first" before "lieutenant" in sixth line. Change Company "I" to Company "E" in seventh line.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1728.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 15, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9302.]

The Committee on Pensions, to whom was referred the bill granting a pension to John Scudder, have examined the same, and report.

The report of the House committee is adopted, the bill reported favorably, and its passage recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9302) granting a pension to John Scudder, submit the following report:

John Scudder is the father of John Sidney Scudder, who enlisted September 1[illegible], 1864, as private in Company I, Twentieth Regiment New York Volunteers, and died while in service of typhoid fever, leaving neither widow nor minor child surviving him.

The mother of the soldier died June 14, 1872. The father applied for pension November 28, 1879, but his claim has been rejected on the ground that at time of the soldier's death his income from his labor was sufficient for the support of himself and family.

There is ample proof that the soldier assisted the claimant prior to enlistment. The evidence further shows that for many years past he has been badly disabled, and now at the age of seventy-four years is unable to work, has no property, and as appears from the affidavit of the overseer of the poor of the county in which he resides, is supported by charity.

The case is one clearly within the well-established rules of the House, and relief to this old and worthy claimant should no longer be withheld.

The bill is therefore returned with the recommendation that it do pass.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1729.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 15, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9826.]

The Committee on Pensions, to whom was referred the bill granting a pension to Rachael A. Fenstamaker, have examined the same and report:

In view of the facts as set forth in the report of the House committee, hereto appended, the bill is reported favorably and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9826) granting a pension to Rachael A. Fenstamaker, submit the following report:

That Rachael A. Reed was the widow of John Reed, Company F, Sixty-third Pennsylvania Volunteers, who died of typhoid fever June 24, 1862. Widow was drawing a pension on account of said soldier until October 13, 1864, when she married another soldier, Isaac N Fenstamaker, first lieutenant Company F, Sixty-third Regiment Pennsylvania Volunteers. This soldier died December 26, 1877, when his widow, December 26, 1879, applied for a pension on account of this soldier's death, but was finally rejected, in 1883, on the ground that the cause of death was not clearly proved to have been due to the service. The evidence taken in the case showed his prior soundness and freedom from disease; but his long service, during which he received an injury to the stomach and back by being struck in the stomach and knocked down in the battle of Bull Run, from which it was alleged originated Bright's disease and lung trouble, from which he died. The Pension Office was not satisfied that the death cause was from the injury in the service.

Your committee incline to give the widow the benefit of the doubt; and, in view of the fact that she was a pensioner on account of her first soldier-husband's death, and that by her marriage to second soldier she lost her pension, and now has been without a pension for thirteen years, since the death of her second husband, recommend the passage of the bill with the following amendments:

Strike out "John Reed," and insert "Isaac N. Fenstamaker, first lieutenant," and by striking out all after the word "volunteers."

51st Congress, 1st Session. | SENATE. | Report No. 1730.

IN THE SENATE OF THE UNITED STATES.

September 15, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6195.]

The Committee on Pension, to whom was referred the bill granting a pension to Clarrissa Barker, have examined the same and report:

The report of the House committee is adopted, the bill reported favorably, and its passage recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6195) granting a pension to Clarrissa Barker, submitted the following report:

The evidence shows that Clarrissa Barker is the widow of William P. Barker; that William P. Barker enlisted as a private in Company B, Sixth New York Heavy Artillery, February 8, 1864, and was discharged August 24, 1865; that he applied for an invalid pension January 13, 1869, for the reason "that while in service and in line of duty as a soldier on or about May 12, 1864, in action at Spottsylvania Court-House, Va., he received a gunshot wound in the left leg above the knee, causing lameness; that on the 13th day of September, 1864, while going through Shenandoah Valley, he was struck in the big toe of the right foot by some missile unknown, severing the first joint of said toe; that since his discharge he has been unable to perform steady labor."

At the time of making this application he was about sixty years of age.

After making application in 1869 soldier disappeared and has not been heard of since. The widow alleges that he left home soon after the war, and that she has never heard from him since 1869, at which time he was in Philadelphia in a dying condition, the result, as she believes, of his army experience, and that she is unable to procure further testimony.

The claim of the widow for pension was rejected for want of proof of the date and cause of soldier's death.

Clarrissa Barker is now about ninety years of age, and dependent on the charity of her relatives for support.

51st Congress, 1st Session. | SENATE. | Report No. 1731.

IN THE SENATE OF THE UNITED STATES.

September 15, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 7739.]

The Committee on Pensions, to whom was referred the bill granting a pension to Mary Cannon, have examined the same and report:

The report of the House committee is adopted, the bill reported favorably, and its passage recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7739) granting a pension to Mary Cannon, submit the following report:

That the said Mary Cannon is the daughter of James Cannon, late a private in Company D, One hundred and twenty-fifth Regiment New York Volunteers, who died June 24, 1864, from wounds received in battle. That the widow of said soldier, the mother of said Mary, died in December, 1880. That the said Mary is now totally blind, and has been since she was two years of age, and is entirely without means of support, and dependent upon others.

Your committee think it but simple justice that this poor blind daughter of a soldier who gave his life to his country should receive the pension that the mother received during her life, and therefore recommend the passage of the bill.

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1733.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 15, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9084.]

The Committee on Pensions, to whom was referred the bill granting a pension to David Stockwell, have examined the same and report:

The report of the House committee is adopted, the bill reported favorably, and its passage recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9084) granting a pension to David Stockwell, submit the following report:

The evidence shows that the claimant enlisted at Whitehall, N. Y., in August, 1862, in Company F, One hundred and sixty-ninth New York Volunteers, for three years; that the day after his enlistment he left Whitehall with his company, commanded by Capt. Augustus Vaughn, to join the regiment in camp at Troy, N. Y.; that upon leaving the cars at Troy he slipped, receiving a terrible fall which caused a serious break in his left groin and a serious injury to his leg.

He was the same day taken to the camp where his regiment was located. The next day, on being examined for muster, he was rejected on account of the disabilities received from his fall. The evidence shows clearly that he was sound at the time he enlisted, the manner in which the injury was received, its extent and continuance to the present time, one of the affiants being a physician who has known him both before and since his enlistment.

Your committee believe this to be a just bill, and therefore recommend that the bill do pass.

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1733.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 15, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9716.]

The Committee on Pensions, to whom was referred the bill (H. R. 9716) granting a pension to John Grace, have examined the same and report:

In view of the facts as set forth by the report of the House committee in this case, hereto appended, the bill is reported favorably and its passage recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9716) granting a pension to John Grace, submit the following report:

John Grace is the father of Edward Grace, who enlisted in Company A, Ninety-first Regiment, New York Volunteers, September 2, 1861, and died July 3, 1863, of wounds received in action at Port Hudson. He had another son who also died from wounds received in action. The wife of claimant, and mother of these two soldiers, applied for pension, but her claim has been rejected by the Pension Bureau because the soldier, Edward Grace, left surviving him a widow who was pensioned and continued to draw pension until her remarriage, a few years later. The mother of Edward Grace is now dead, as is also his widow, as shown by the evidence before your committee. The claimant, John Grace, is now eighty-three years of age, has no property or income from any source, and is now supported by a widowed daughter-in-law, who has five children to maintain by her own efforts. He feels that he is too much of a burden upon her, and asks that the Government, in whose service two of his sons have died, grant him a pension, that he may be spared the necessity of spending the few remaining months of his life in the almshouse.

Your committee are of the opinion that his request should be granted, and therefore report favorably on the accompanying bill and ask that it do pass.

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1734.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 15, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8234.]

The Committee on Pensions, to whom was referred the bill granting a pension to Catharine S. Lawrence, have examined the same and report:

The report of the House committee in this case is hereto appended; the bill is reported favorably, and its passage recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8234) granting a pension to Catharine S. Lawrence, submit the following report:

The evidence shows that the beneficiary had by training, before she received her appointment as nurse, qualified herself for that position; that she entered the service as a nurse in 1861, and continued in the same for four years.

She was first assigned to duty at Fortress Monroe, where she remained for some time. Then she was appointed by General H. Finley directress of the Kalorama Eruptive Hospital, where she remained nearly a year caring for patients sick with the small-pox and other loathsome diseases. She remained here until separation from the outside world and the nature of her service affected her health, when she was removed by order of Dr. Bulkley to the Patent Office Hospital. She remained here several months, when the medical director appointed her to Seventh Street Military Hospital. This was a very filthy place, the sick lying on their army blankets upon the floors. She had the men carried out under the trees, the rooms thoroughly cleaned, and cots and bedding procured, and the men made comfortable. She then went to Armory Square Hospital. Here she worked putting everything in readiness for patients. This was previous to the second battle of Bull Run. Here she remained several months, acting as surgical nurse. She then went to Convalescent Camp, near Alexandria, caring for the sick and assisting in preparing food for sixty convalescent soldiers. She also served in the hospital at Fairfax.

During these years of service she received no compensation. She raised by her own efforts large amounts of supplies, visiting New England in person to procure supplies for the soldiers, which she distributed in person. She is now over seventy years of age, in very feeble health, is entirely without means of support, and supported by her friends. She is a maiden lady, old, feeble, dependent. She gave four of the best years of her life for the benefit of the sick and wounded soldiers, caring for them when sick with that loathsome disease the small-pox, and now, broken down in health, she asks the Government, for which she has labored so faithfully, to grant her a sum that shall place her above want.

She is warmly recommended by the Army Nurse Association, by ladies of the Sanitary Commission, and by many of the most prominent citizens of the city of Albany, N. Y., her home.

O

51st Congress, 1st Session. | SENATE. | Report No. 1735.

IN THE SENATE OF THE UNITED STATES.

September 15, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9375.]

The Committee on Pensions, to whom was referred the bill granting an increase of pension to Mrs. Catharine Edmands, have examined the same and report:

The report of the House committee is adopted, the bill reported favorably, and its passage recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9375) granting an increase of pension to Mrs. Catherine Edmands, submit the following report:

The claimant's late husband, Joseph Cushing Edmands, entered the service at the age of nineteen years as first sergeant of Company K, Twenty-fourth Massachusetts Volunteers, on the 4th of October, 1861, and was discharged August 12, 1862, to accept commission as captain of Company K, Thirty-second Massachusetts Volunteers. He was mustered in as major of the last-named regiment March 12, 1863, and as lieutenant-colonel to date, July 29, 1864. He was wounded severely in the right leg at the battle of Petersburgh, Va., September 30, 1864; promoted to colonel of his regiment November 1, 1864, and honorably discharged July 1, 1865. From December 16, 1863, to March 7, 1864, he was a prisoner of war.

Colonel Edmands died December 28, 1879, and his widow was allowed a pension at the rate of $8 per month, which was subsequently increased by the act of March 19, 1886, to $12 a month. The rank fixed in the widow's certificate is that of sergeant.

The widow, who is now in poor health and in great need of the increased rating provided for by the bill, contends that the wound which her husband received while holding the rank of lieutenant-colonel was one of the principal causes of his death, and that she is justly entitled to be pensioned as a lieutenant-colonel's widow.

The immediate cause of the soldier's death was (as shown by the papers on file at the Pension Bureau) disease of the lungs. It appears further that during the early part of his service and while ranking as sergeant the soldier contracted diarrhea, and that at intervals thereafter to the time of his death he suffered from attacks of the disease. The diarrhea was accepted by the Pension Bureau as the primary cause of death, and when the widow's claim was allowed the rank was fixed as sergeant because that was the rank held by the soldier when he had his first attack of diarrhea. Your committee think, however, that the wound of leg must not be ignored as an important factor in causing this gallant officer's death. It is shown that the wound was continually gathering and breaking, and that he suffered very severely from the same. Chronic ulceration resulted, causing a constant and serious drain upon his system, and this, together with the diarrhea, finally produced disease of the lungs and death.

The testimony of Sheldon I. Kellogg, of Oakland, Cal., filed in the Pension Bureau July 25, 1884 (prior to the time of the allowance of the widow's pension), is as follows: That in the autumn of 1865 the soldier came to his (Kellogg's) house in Balti-

more, Md., on his way to Boston with his regiment, and appeared in fair health, though affiant heard he had the diarrhea. The soldier visited witness several times in the winter and spring of 1866, and affiant noticed he looked white and thin and sometimes limped when he walked; from his conversation witness felt almost sure that his ailments were caused by the wound of leg. In 1868, 1869, and 1870 witness lived in Newton, Mass., and often saw the soldier at his house; soldier then had periods of "paleness," and witness noticed that at such times he favored his wounded leg. Saw the soldier again in 1871 and his wound seemed to affect him more than ever before, and afterwards the witness began to see that the wound was affecting the soldier's general health; often found him suffering great distress and exhaustion of strength. Soldier also had diarrhea, and that disease and the wound together impaired the soldier's naturally vigorous constitution.

In view of the soldier's long and honorable service, his widow's necessities and the fact that when wounded he held the rank of lieutenant-colonel, your committee recommend the passage of the bill. Amend as follows: Before the word "colonel," in line 5, insert the word "lieutenant."

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1736.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 15, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9270.]

The Committee on Pensions, to whom was referred the bill granting an increase of pension to Charles E. Osborn, have examined the same and report:

The report of the House committee is adopted, the bill reported favorably, and its passage recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 9270) granting an increase of pension to Charles E. Osborne, have considered the same and report as follows:

Charles E. Osborne was a private in Captain Harper's Company of the First Kentucky Volunteers and served a year in the war with Mexico. He is now receiving a pension at $8 per month on account of said service.

Accompanying the claimant's petition for relief are the sworn statements of John E. Pitcher and Dr. E. R. Montgomery, reputable citizens of Louisville, Ky., to the effect that the claimant is sixty-three years old and totally disabled for manual labor by reason of rheumatism and of blindness of the left eye. He is financially destitute and devoid means of support. The house in which he was living was destroyed by the recent tornado at Louisville and what little household effects he had were demolished.

The bill is respectfully returned with the recommendation that it do pass.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1737.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 15, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9371.]

The Committee on Pensions, to whom was referred the bill for the relief of Fanny A. Patney, have examined the same and report:

The report of the House committee is adopted, the bill reported favorably, and its passage recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 9371) granting a pension to Fanny A. Putney, have considered the same and, report:

Elum Putney, the claimant's deceased husband, served in Capt. Thaddeus Sheldon's company of New York militia, war of 1812, from September 11, 1814, to September 22, 1814. He was paid for twelve days' service. It is stated on the rolls of the company that the soldier was "discharged 18th September, 1814, at Burlington; distance from place of residence, 75 miles."

The claimant filed an application for pension in the Pension Bureau, but the same was rejected on the ground that the soldier did not serve the requisite length of time (fourteen days) to entitle her under the general law.

The claimant's loyalty and identity are fully established by the testimony filed with her application. She is now about eighty years old.

The soldier's service lacked but two days of being of sufficient duration to entitle his widow to a pension, and in view of her great age your committee are of the opinion that it would be but an act of justice to grant the relief prayed for.

The passage of the bill is recommended.

O

51st Congress, 1st Session. | SENATE. | Report No. 1738.

IN THE SENATE OF THE UNITED STATES.

September 15, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 7917.]

The Committee on Pensions, to whom was referred the bill granting an increase of pension to Eliza Efner, have examined the same and report:

The report of the House committee is adopted, the bill reported favorably, and its passage recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 7917) granting an increase of pension to Eliza Efner, have considered the same and report:

The claimant is now in receipt of a pension at $12 per month on account of the service of her late husband, William Martin Efner, in the war of 1812. He served in Capt. John Fink's company, New York Volunteers, from October 24, 1812, to February 24, 1813.

She prays that her pension be increased to $30 per month, declaring that she is eighty-four years old, and nearly blind. She says further that she has no means of support except her pension, and in view of her condition the same is wholly inadequate; she is obliged to depend largely upon others for the necessities of life.

Her statements are fully corroborated by the testimony of Abram and Jane Yansen.

The passage of the bill is recommended.

51ST CONGRESS, 1st Session. | SENATE | REPORT No. 1739.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 15, 1890.—Ordered to be printed.

Mr. FRYE, from the Committee on Commerce, submitted the following

REPORT:

[To accompany S. 4375.]

The Committee on Commerce, to whom was referred the bill (S. 4375) to provide an American register for the steam-ship *G. W. Jones*, having duly considered the same and accompanying evidence, report as follows:

The steam-ship *G. W. Jones* was built in 1883, at Sunderland, England, by the firm of J. Blumer & Co. Her tonnage is 627 tons net. She was originally owned by the New Brunswick Trading and Commercial Company, of London, and was by them sold, in 1887, to R. M. Phillips, a citizen of the United States and a resident of the city of New York, for the sum of $34,050.

After the purchase of this vessel by Mr. Phillips, and while employed by him in the carrying trade between New York and the West Indies, she was seriously damaged by collision near Fernandina, Fla., but outside of American waters. The injuries sustained required extensive repairs, all of which have been made in American ports, viz, New York and Philadelphia, by American firms, for which vouchers and receipts, verified by affidavits, amounting to $30,746.73, have been submitted.

She was valued and appraised at New York September 4, 1890, by the marine surveyor and the surveyor and inspector of hulls of that port, who, under oath, certify her present value to be $30,000.

The owner, Mr. Phillips, a resident of New York, doing business at No. 21 State street in said city, and a native-born American citizen, is desirous of obtaining an American register for his vessel, and having practically rebuilt this ship in the United States, expending more than three-fourths of her cost or present value, your committee recommend the passage of the bill.

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1740.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 15, 1890.—Ordered to be printed.

Mr. PADDOCK, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9126.]

The Committee on Pensions, to whom was referred the bill granting a pension to William W. Reed, formerly a private in Company D, in the Ninety-sixth Regiment Ohio Volunteers, have examined the same and report:

Upon an examination of the evidence in this case the committee find the facts clearly set forth in the subjoined House report, and adopt it as their own.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 912) granting an increase of pension to William W. Reed, submit the following report:

Claimant was a member of Company D, Ninety-sixth Regiment of Ohio Volunteer Infantry; enlisted August, 1862, and was discharged in August, 1863, by reason of gunshot wound in battle. Ball struck right side of face, shattering alveolar process of superior maxillary, carrying away a portion of it, together with teeth, and shattering hard palate, passing through left molar bone, shattering it.

There are deep scars across on either side of face, causing much disfigurement. The hard palate is torn and posterior palate displaced backward and leaving a large opening between cavities of mouth and nose; great loss of bony substance throughout the track of wound; loss of power of muscles of lower jaw and pain in use. There is an opening between mouth and posterior nose, so that food taken in the mouth runs out of nose in swallowing, deficiency of speech, and inability to masticate food; inflammatory condition of nose, producing catarrhal discharges and impairs stomach and digestion and has left claimant in this deplorable condition.

He was pensioned for $15, $18, and is now drawing $24. His application for increase was rejected in the Pension Office because he was rated as high as the office could rate him under the general law.

This distressful and unfortunate suffering soldier is now in destitute circumstances, and in such a miserable condition that it is only a question of time when he will die from the effects of the wound.

Your committee recommend the passage of the bill, amended, however, by striking out, in line 5, "seventy-two" and inserting "sixty."

51st Congress, 1st Session. | SENATE. | Report No. 1741.

IN THE SENATE OF THE UNITED STATES.

September 15, 1890.—Ordered to be printed.

Mr. Paddock, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8473.]

The Committee on Pensions, to whom was referred the bill granting a pension to Thompson Riley, of Capt. Lemuel Ford's Company of Indiana troops, in the Black Hawk war, have examined the same and report:

That they have examined the case fully and find the facts as stated in the appended House report and adopt the views therein expressed as the views of the committee.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 8473) granting a pension to Thompson Riley, have considered the same and report as follows:

The claimant was a private in Capt. Lemuel Ford's company of United States Mounted Rangers, and served from July 2, 1832, to July 2, 1833, in the Black Hawk war.

In his application for relief by special act the claimant declares he is seventy-eight years old, and by reason of epilepsy, from which he has been a sufferer for twenty-one years, he is unable to perform any manual labor. His identity and loyalty are established by the testimony of S. B. Downing and A. G. Clyman. It is further shown that he is poor, and by reason of age and disease almost entirely helpless. His wife still survives, aged seventy-six years.

That the case is a proper one for the favorable consideration of Congress is shown in a petition signed by sixty-seven citizens of Drakesville, Iowa.

Your committee are of the opinion that the relief prayed for should be granted and the bill is therefore reported back with the recommendation that it do pass.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1742.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 15, 1890.—Ordered to be printed.

Mr. PADDOCK, from the Committee on Pensions, submitted the following.

REPORT:

[To accompany H. R. 11481.]

The Committee on Pensions, to whom was referred the bill granting an increase of pension to Edwin D. Bradley, late a colonel of the Thirty-eighth Regiment Ohio Infantry Volunteers, in the war of 1861 to 1865, have examined the same and report:

The facts in this case are correctly stated in the subjoined House report, which is adopted as the report of this committee with the recommendation that the bill do pass.

[House Report 3040, Fifty-first Congress, first session.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11481) granting an increase of pension to Edwin D. Bradley, late colonel of the Thirty-eighth Regiment Ohio Volunteers, submit the following report:

Edwin D. Bradley served as captain of Company F, First Regiment Ohio Volunteers, war with Mexico, from July 29, 1846, to June 5, 1847, also as adjutant of the Fourteenth Regiment Ohio Volunteers, in the war of 1861, from April 27, 1861, to August 16, 1861; also as colonel of the Thirty-eighth Regiment Ohio Volunteers, in the same war, from September 10, 1861, to February 8, 1862. He is now 87 years of age.

While in the service in the Mexican war he contracted chronic diarrhea, which disability has afflicted him continuously since his service in that war, and still does so. By reason of this disease he was compelled to resign his commission in the Thirty-eighth Ohio Regiment and return home. In 1872 he was attacked by consumption which progressed to the extent of practically destroying his left lung. He is now drawing a pension at the rate of $20 per month for the disability resulting from chronic diarrhea.

His application for an increase of pension was filed in May, 1888, and rejected December 12, 1888. The grounds upon which increase was claimed were disease of the heart, lungs, liver, kidneys, and spleen, alleged to be the results of the chronic diarrhea. The claimant was too much prostrated to go before the regular examining board of surgeons, and Dr. William Ramsey, of Delta, Ohio, was by the Pension Commissioner appointed to make the examination at the residence of the claimant. Colonel Bradley resides in Stryker, Ohio, some 25 miles distant from Delta. That examination shows that claimant is "totally unfit to do any kind of labor, and requiring a constant attendant, being unable to get out of his room; general debility, can not void urine without the use of a catheter." The report further states:

"I find him resting on the lounge unable to divest himself of any part of his clothing to be examined. Tongue some coated, grooved and dry; continually hacking and trying to clear the throat. On auscultation and percussion I find the left lung totally worthless, little or no air entering it. Right lung is quite good for his age. * * * There is excessive tendency of the left iliac side and over the bladder. The spine all the way is very tender to pressure. Has not voided urine for eight years without the use of the catheter. When not having diarrhea is very costive. Requires a constant attendant. * * * A man of excellent habits."

The claim for increase was rejected on the ground that the disabilities claimed to be results of the chronic diarrhea for which claimant was drawing pension could not be accepted as such results.

There is no question regarding the complete and permanently disabled condition of claimant. His great age and enfeebled condition, taken in connection with his faithful service to his country in two wars of the republic, appeals strongly to the generous consideration of Congress. Again, it is by no means certain that the diseases which now afflict him are not traceable to the original pensionable cause. But however opinions may differ upon that point, your committee feel that the condition and services of this soldier are such as to warrant the granting of the relief asked, and we therefore report the bill favorably.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1743.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 15, 1890.—Ordered to be printed.

Mr. PADDOCK, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9405.]

The Committee on Pensions, to whom was referred the bill granting an increase of pension to Michael Hargain, late a seaman on the U. S. schooner *Otsego*, have examined the same and report:

The facts in this case are substantially stated in the appended House report, which is adopted as the report of this committee, with the recommendation that the bill do pass.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 9405) granting an increase of pension to Michael Hargain, have considered the same and report:

The claimant served in the United States Navy, in the Florida expedition, from September 1, 1840, to June 30, 1841, in the capacity of boatswain's mate, seaman, and gunner. This service was rendered in the prosecution of the Florida Indian war, and Hargain was honorably discharged. He filed a claim for disability pension in 1886, but his claim was rejected on the ground that the claimant was unable to furnish evidence of officers and comrades to establish origin of the same during his naval service.

The claimant is over seventy years of age and is practically blind in the right eye. He is also severely disabled by disease and is without property of any kind, dependent upon his labor.

He was granted a pension by special act of Congress, at the rate of $8 per month, at the first session of the Fiftieth Congress. His disabilities and needs have increased so much, however, that his pension is insufficient to supply absolute necessities.

The testimony of Dr. C. E. Wilbeck shows that in addition to his blindness of right eye the claimant is severely disabled by double inguinal hernia, chronic rheumatism, and inflammation of the bladder, causing great physical weakness and nervous prostration.

Congress has repeatedly allowed the amount of pension provided for in the bill to the aged and disabled survivors of the old Indian wars, and your committee, believing the case to be a worthy one, return the bill with a favorable recommendation.

O

51st Congress, 1st Session. | SENATE. | Report No. 1744.

IN THE SENATE OF THE UNITED STATES.

September 15, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on pensions, submitted the following

REPORT:

[To accompany H. R. 2487.]

The Committee on Pensions, to whom was referred the House bill 2487, granting a pension to Micager Hancock, a soldier of the war of 1812, have examined the same and report:

That from the facts stated in the House report, which is hereby attached and made a part hereof, we believe this to be a meritorious measure and do recommend the passage of the bill.

[House Report No. 2495, Fifty-first Congress, first session.]

The Committee on Pensions, to whom was referred the bill (H. R. 2487) granting a pension to Micager Hancock, have considered the same and report as follows:

Your committee beg leave to report that Micager Hancock was a soldier in the war of 1812, and entered the service at Eagerry, Del., in the spring of 1813. He served under Capt. Samuel Taylor, and fought at the battle of Lewiston, in April, 1813. It appears when the term of service was up and the war was over that the captain relieved all his men, and they were permitted to return home.

These facts appear in an affidavit made by the applicant; he is without corroborating testimony, and your committee has been compelled to rely upon his statement as being true, it being vouched for by the affidavits of J. C. Brewer, L. N. Hollett, J. C. Bledsoa, and J. B. Keeves, who are four of the most reputable and well-known citizens residing at Mr. Hancock's home, who testify that they have known him for thirty years and more, and that he is a man of undoubted truth and veracity. Mr. Owen, who is the Representative in Congress from that district, states that he has known the family for many years, and that they are thoroughly reputable citizens, and are regarded as among the most upright and circumspect families in their community. Mr. Hancock is very poor.

In view of the fact that Mr. Hancock is one hundred and two years of age and is thus thoroughly indorsed, your committee believes that he is entitled to credit, and accepts his statement as true, and therefore recommends that in lines 5 and 6 the words "according to the pension laws of the United States" be stricken out, and that "at $25 per month" be inserted, and thus amended that the bill do pass.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1745.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 15, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 7718.]

The Committee on Pensions, to whom was referred the bill granting a pension to Thomas Egan, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7718) granting a pension to Thomas Egan, submit the followin report:

Thomas Egan served as private of Company G, Sixth Regiment Missouri Volunteers, from June 17, 1861, to June 25, 1864, when discharged by reason of expiration of term of service. He applied for pension December 20, 1883, arguing that while engaged with the enemy near Florence, Ala., in September, 1863, a piece of the cap of the gun struck the upper lid of his right eye, from which injury the eye became diseased, and continued to be sore until, in March, 1880, he lost the sight of the said eye entirely; also that from sympathy the other eye became affected, and that since March, 1883, he has been totally blind.

There is no record of the injury, and claimant himself states that he received no treatment therefor in service, but at the advice of the regimental surgeon, now dead, kept the eye bandaged.

The case has been very thoroughly specially examined, and no adverse testimony has been obtained, nor do any suspicious features appear in the several medical examinations. But the evidence as to incurrence of the disability is not satisfactory to the Pension Office, hence the rejection of the claim.

The evidence shows conclusively that claimant was a very robust man and of good eyesight at enlistment. His officers and comrades remember little about him, he being a stranger to them at the time of his entry into service, and having had no associations with them since discharged by reason of his residence in a State east of that in which the command was organized. Neither is it strange that an injury apparently so slight as that received by the claimant should be remembered after years of separation.

But the evidence filed in support of the claim, as well as that obtained by special examination, shows conclusively that immediately after return home, although otherwise in good health, claimant's eyes were seriously affected and continued to grow worse until, as heretofore stated, he became totally blind in the injured eye in 1880, and also in the other eye in 1883.

The claimant is shown to be a man of regular habits and truthful. He has an aged wife and four small children, is without means, and, as shown by the statement of the Hon. A. S. Willis, late a member of this House, the entire family is supported by charity.

Having served his adopted country faithfully for three years, and being now an object of charity, in the absence of any adverse feature in the case your committee feel inclined to solve whatever doubt there may exist as to the origin of the disability in favor of the claimant, and therefore report favorably on the bill, and ask that it do pass, amended, however, by adding after the word "Infantry" in line 6, the words "and pay him a pension at the rate of $40 per month."

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1746.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 15, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2550.]

The Committee on Pensions, to whom was referred the bill granting a pension to Wm. C. Ebert, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2550) granting a pension to William C. Ebert, submit the following report:

The claimant, William C. Ebert, alleges that at the commencement of the war of the rebellion he was a resident of Hannibal, Mo.; that he had been a resident of said place since the spring of 1857; that during the latter part of July, 1862, a military company was being formed for the purpose of protecting property and guarding a large amount of United States military stores in charge of Maj. E. Wilmot, quartermaster at that post; that he joined and became a member of said company; that on the 6th day of August, 1862, claimant was detailed by Maj. Thomas D. Price, provost-marshal at Hannibal, Mo., to guard a large amount of military stores which were in charge of Maj. E. Wilmot, quartermaster, a requisition having been made by the quartermaster upon the provost marshal for a guard; that while in the performance of said duty, on the night of the 6th day of August, 1862, he received a gunshot wound in the elbow of his left arm, and that on the following day his arm was amputated a few inches above the elbow by Drs. Edward Duffield and Benedict T. Norton, and further that the said Dr. Duffield died some years since.

Dr. Benedict T. Norton testifies that he assisted in the amputation of left arm of claimant on or about the 7th day of August, 1862, made necessary by claimant having received a gunshot wound while acting in line of duty as a member of the provost-marshal guard. Thomas M. Price, who is now, and has been since 1878 land commissioner of the Hannibal and St. Joseph Railroad Company, and was paymaster of said company from 1858 to 1865, testifies that he was major of the Thirty-eighth Regiment of Enrolled Missouri Militia; that on or about the 3d day of August, 1862, he was duly appointed provost-marshal, with headquarters in the city of Hannibal, and entered at once upon the discharge of his duty; that to the best of his recollection at the time there were no regular troops there that could be called upon to do guard duty, and being called upon by Maj. E. Wilmot, post quartermaster, for guards, he organized a volunteer guard of citizens; he ordered the claimant, William C. Ebert, to act as a guard for military stores. While in the line of his duty as such on or about the 6th day of August, 1862, and during the night, the claimant was disabled by a gunshot wound in left arm; that in consequence thereof the arm was soon after amputated by Drs. Duffield and Benedict, of Hannibal, Mo.

T. K. Hayward, ex-mayor of Hannibal, Mo., testifies that he has been a resident of Hannibal, Mo., since 1858; that Thomas M. Price was provost-marshal at the time specified above; also that Major Wilmot was post quartermaster, and his testimony in relation to the incurrence of claimant's disability is substantially the same as that of the provost-marshal, Thomas E. Price. Alexander F. Denny makes affidavit that Thomas E. Price was provost-marshal at the time specified, and that he was his successor and relieved him in August, 1863.

It does not appear that claimant had been mustered into the United States service, therefore, under existing law, could not be granted a pension by the Pension Bureau; but it appears from the testimony that the claimant was performing the duty, under orders of the provost-marshal, of a regularly mustered soldier, and that while in line of duty lost his arm.

Your committee is informed that the claimant is a highly respected citizen of Hannibal and did not intend to make application to the Government for pension until he met with business reverses which forced him to do so for the support of his family.

Your committee submit a favorable report and recommend that the bill do pass with the following amendment: Striking out all after the word "guard," in line 7.

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51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1747.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 16, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11122.]

The Committee on Pensions, to whom was referred the bill (H. R. 11122) granting a pension to Sarah Anderson, have examined the same, and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11122) granting a pension to Sarah Anderson, submit the following report:

Claimant was the sister of William B. S. Anderson, late private in Company I, Fifth Ohio Volunteer Infantry, who was killed in battle in the late war.

The mother of this soldier was pensioned as a dependent mother until she died, and since that date no one has been drawing a pension on account of soldier's death. Claimant is now fifty years of age and has been in a helpless, crippled condition—lower limbs paralyzed—since she was four years of age.

She is poor and entirely destitute and no one legally bound to support her, and entirely dependent on charity for support. Her condition is described in affidavits of Dr. Louis Church, Mr. John B. Washburn, and several others, who are reliable and reputable men.

Your committee deem this a meritorious claim, and recommend the passage of the bill.

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1748.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 16, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8163.]

The Committee on Pensions, to whom was referred the bill (H. R. 8163) granting a pension to W. W. Seely, have examined the same and report:

The report on which this bill was passed by the House is concurred in and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8163) granting a pension to W. W. Seely, submit the following report:

W. W. Seely, the beneficiary named in the bill, was a member of Company H, Second Minnesota Regiment of Volunteers in the late war. He served faithfully from the time of his enlistment, February 18, 1864, to the close of the war, and was discharged on the 11th day of July, 1865, at Louisville, Ky., with his regiment. He was with his company sent to Fort Snelling near St. Paul, where, on the 21st day of that month, he received his discharge. On the following day he, with a number of his comrades, took passage in a stage for home, which was 135 miles distant. This was his only means of conveyance.

Mr. Seely resided at Winnebago City, and did when he enlisted into the military service. The driver of the stage was intoxicated, and before they had proceeded far, and while within a few miles of Fort Snelling, the intoxicated driver overturned the stage and Seely, who was compelled to ride on the top for want of sufficient room with his comrades, was thrown into the ditch, and he received an injury to his spine, which entirely ruined his health for life. He was carried back to St. Paul, placed in a hotel, where for a month he was unable to leave his bed. After several weeks of confinement he was taken to his home. Mr. Seely has always borne an excellent character. He was a graduate from college and held many places of trust and honor. He enlisted as a private and devoted himself to the cause of his country at a time when he could have earned and commanded a good salary, and the committee think he was entitled to safe transportation until he reached his home.

He was in no way at fault when he received the injury. His return to his home was a journey incident to his service, and while he could not receive a pension under the general laws, this spirit would afford him a just relief. Mr. Seely has never recovered from the injury. The proof is conclusive that ever since the accident he has been subject to great pain, suffering, and sickness from the injury received. He is unable to labor, is poor, and entirely without means. He has a wife who was his companion before the war, still dependent upon him for support.

Your committee believe that Mr. Seely should be placed upon the pension roll and be treated the same as if he had received his injury before the discharge was placed in his hands, for he was still in transit when he was injured, and they report this bill back with a recommendation that it pass.

The bill is reported favorably, with a recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1749.

IN THE SENATE OF THE UNITED STATES.

September 16, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8923.]

The Committee on Pensions, to whom was referred the bill (H. R. 8923) granting an increase of pension to James M. Monroe, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8923) increasing the pension of James M. Monroe, submit the following report:

The claimant was a private soldier in Company G, Forty-second Ohio Volunteers. At Chickasaw Bayou near Haines Bluff, in General Sherman's first attack on Vicksburg, on the 28th day of December, 1862, claimant was wounded by a shell from the enemy's battery, which necessitated the immediate amputation of his left leg. The shot also struck his right foot, carrying away the three outside toes and their metatarsal bones. The second joint of the second toe is anchylosed, causing it to stand up, and when walking it presses against the great toe, causing friction and pain. The cicatrix on the outside of the foot is very tender, therefore claimant is compelled to throw the pressure when standing or walking on the inside of the foot which produces a large clavi pedum, and is very painful.

Claimant is pensioned at $30 per month, which is a specific rate for loss of one leg, and to which amount he is entitled without the disability of the right foot. There being no law by which these two disabilities can be compounded, your committee find this a very meritorious case, and one which can only be reached by special act; therefore recommend the passage of the bill with the following amendment, striking out "fifty dollars" and inserting "forty dollars."

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1750.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 17, 1890.—Ordered to be printed.

Mr. FAULKNER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 7463.]

The Committee on Pensions, to whom was referred the bill (H. R. 7463) for the relief of Lawrence M. Cafflin, have carefully examined the same and respectfully report:

We adopt the report submitted by the Committee on Invalid Pensions, House of Representatives, and recommend that the bill do pass.

The House report is as follows:

Lawrence M. Cafflin entered the service of the United States January 6, 1865, as third assistant engineer, ranking with midshipman, and served on the steamers *Republic* and *Harcourt* of the Navy until November 1, 1865, when honorably mustered out by reason of the termination of the war.

He alleges that, while on duty on the *Republic*, by reason of a sudden lurch of the ship, he was thrown down, striking on his groin and causing a rupture; also that by reason of exposure in the engine-room his right eye was injured, in consequence of which injury he has lost the sight of the same.

In support of his allegation he filed the testimony of the second assistant engineer of aforesaid steamer and the testimony of other credible witnesses showing the existence of the alleged disabilities shortly after discharge and ever since; but, because the second assistant engineer is now, after a lapse of twenty-five years, unable to give all the particulars of the injury, the Pension Office refuses, in the absence of the medical records of the vessel, to accept his testimony as conclusive, and claimant being unable to furnish other evidence as to the incurrence of his disabilities, is deprived of his pension under the general law.

The claimant is an honorable gentleman, and has, in the opinion of your committee, sufficiently established his claim to warrant favorable action at the hands of Congress.

Your committee therefore return the accompanying bill with the recommendation that it do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1751.

IN THE SENATE OF THE UNITED STATES.

September 17, 1890.—Ordered to be printed.

Mr. Faulkner, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6349.]

The Committee on Pensions, to whom was referred the bill (H. R. 6349) increasing the pension of Mary Snead, a Revolutionary pensioner, have examined the same and report:

Your committee adopt the report submitted by the Committee on Pensions, House of Representatives, and recommend the passage of the bill.

The House report is as follows:

The claimant's husband, Bowdoin Snead, was a private in the militia of Accomack County, Va., commanded by Captain Copes and others, and served irregularly, as his services were required, about two years in the Revolutionary war. He was pensioned at $80 per annum for his said services, and died July 29, 1842.

The claimant is now a pensioner at $12 per month on account of her husband's service in the war of the Revolution. She asks for an increase to $30 per month, declaring that the pension she is now drawing is too small for her comfortable support, and another pensioner of her small class has been granted by special act of Congress the increase she prays for. The papers filed in the Pension Bureau indicate that the claimant is now about seventy-four years old and she is very poor.

Believing this to be a worthy case, your committee respectfully recommend the passage of the bill.

O

51st Congress, 1st Session. | SENATE. | Report No. 1752.

IN THE SENATE OF THE UNITED STATES.

September 17, 1890.—Ordered to be printed.

Mr. Walthall, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 8950.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 8950) to authorize the Haines's Brackett, Fort Clark and the Rio Grande Railroad Company to construct and operate a railway through the Fort Clark military reservation in Texas, and for other purposes, having considered the same, report as follows:

This bill has passed the House of Representatives, and the report of the House Committee on Military Affairs is hereto appended.

This committee referred the bill to the War Department and received a communication on the subject from the acting Secretary of War, dated September 12, 1890, which is set out below.

It will be seen that the War Department favors the bill, and your committee recommends its passage.

[House Report No. 1319, Fifty-first Congress, first session.]

The Committee on Military Affairs have considered House bill No. 8950, entitled "A bill to authorize the Haines's Brackett, Fort Clark and Rio Grande Railroad Company to construct and operate a railway through the Fort Clark military reservation in Texas, and for other purposes," and respectfully report it to the House with the recommendation that it do pass as hereinafter amended. The following correspondence will, it is believed, afford the necessary information for an intelligent understanding of the merits of the bill.

The committee recommend that the bill be amended by striking out the word "three" in line twenty, section 2, and inserting the word "two."

War Department,
Washington, April 2, 1890.

Sir: I have the honor to acknowledge the receipt of your letter of the 27th ultimo, requesting to be furnished with copies of the reports and recommendations relative to the granting of the right of way through the Fort Clark military reservation to the Brackett, Fort Clark and Rio Grande Railroad.

In reply I beg to invite your attention to the inclosed copy of the application of Mr. Charles D. Haines to the commanding officer, Fort Clark, requesting authority for the company to go on the reservation, together with copies of the indorsements of approval of the military authorities and of this Department thereon, the latter (5th indorsement) showing the conditions upon which the railroad company will be allowed to cross the reservation, and the commanding general, Department of Texas, has been advised in accordance therewith.

Very respectfully,

Redfield Proctor,
Secretary of War.

Hon. Joseph D. Sayres,
House of Representatives.

BRACKETT, TEX., *February* 25, 1890.

DEAR SIR: We are about to make a survey for the Brackett, Fort Clark and Rio Grande Railroad, and to commence building the road at once. I write to ask for the rights and privileges to build, maintain, and operate said railroad over such part of the Government land as will be necessary in securing the most direct line from here to Spofford's Junction. The rights of way or road will be on the Brackett side of the Los Moras and very little of the Government land will be required, probably not over an acre, and that in such a place as will not inconvenience you. I await your reply.

Very truly,

CHAS. D. HAINES,
for Haines's Brackett, Fort Clark and Rio Grande Railroad Company.

Colonel LAZELLE,
Post Commandant, Fort Clark, Tex.

POST OF FORT CLARK, TEX., *February* 25, 1890.

SIR: I have the honor to forward herewith inclosed the application of Mr. Charles D. Haines, representing Messrs. Haines Brothers of New York City, for right of way across the military reservation of Fort Clark, of the projected Brackett, Fort Clark and Rio Grande Railroad.

As projected the amount of land wanted for railroad purposes is very small—not over at most a few acres—and will in no way injure the reservation. It is not wanted for grazing, and has no timber, and its cession is asked merely to afford an outlet to the railroad line from Brackett. The line will not pass nearer than one-half mile of the post.

As the grant would practically cede the land to the railroad company, I am of the opinion that the application will have to be made to Congress. But I forward their application to the honorable Secretary of War, recommending the grant, as the construction of the road would be in every way advantageous to the Government of the United States.

Mr. Haines, the applicant, is, with others, the builder of the road, and asks the grant in behalf of himself and the firm which he represents.

He has been informed that he had better apply directly to the Secretary and Congress, but he desires the action of the military authorities as well.

I am sir, very respectfully, your obedient servant,

H. M. LAZELLE,
Colonel, Eighteenth Infantry, Commanding Post.

The ASSISTANT ADJUTANT-GENERAL,
Headquarters Department of Texas, San Antonio, Tex.

[First indorsement.]

HEADQUARTERS DEPARTMENT OF TEXAS,
San Antonio, March 1, 1890.

Respectfully forwarded through Headquarters Division of the Missouri; approved. The road projected would be of great value to the post and to the military service.

D. S. STANLEY,
Brigadier-General Commanding.

[Second indorsement.]

HEADQUARTERS DIVISION OF THE MISSOURI,
Chicago, March 5, 1890.

Respectfully forwarded to the Adjutant-General of the Army. Approved.

GEORGE CROOK,
Major-General, Commanding.

[Third indorsement.]

ADJUTANT-GENERAL'S OFFICE,
Washington, March 7, 1890.

Respectfully submitted to the Major-General Commanding.

J. C. KELTON,
Adjutant-General.

[Fourth indorsement.]

HEADQUARTERS OF THE ARMY,
Washington, D. C., March 11, 1800.

Respectfully submitted to the Secretary of War. Approved.

J. M. SCHOFIELD,
Major-General, Commanding.

[Fifth indorsement.]

WAR DEPARTMENT,
March 25, 1890.

Respectfully returned.

Application for right of way should be made to Congress.

In the matter of this application for right of way across Fort Clark site, if an application to Congress will cause delay, and it be shown why it is necessary for the railroad company to proceed with the work at once, the Secretary of War will grant them permission to go upon the site on condition that the route of the railroad across the Fort Clark military site shall be subject to the approval of the Secretary of War, who may alter and modify in his discretion; and the railroad company, its successors and assigns, shall occupy and use said route subject to removal therefrom and the revocation of the license and authority given whenever the public service, in the judgment of the Secretary of War, may require such revocation and removal; and the railroad company shall repair at their own expense and in a manner satisfactory to the Secretary of War any damage that may be done to the roads, or otherwise, upon the military site by the construction of the railroad, and with the understanding that the company will secure a right of way from Congress before the expiration of the next session.

REDFIELD PROCTOR,
Secretary of War.

WAR DEPARTMENT,
Washington City, September 12, 1890.

SIR: I return herewith H. R. 8950, "to authorize the Haines's Brackett, Fort Clark and Rio Grande Railroad Company to construct and operate a railway through the Fort Clark military reservation in Texas, and for other purposes," referred to this department by your letter of the 10th instant, and beg to advise you that upon reference of the matter to the Major-General commanding the Army he reports that "there does not appear to be any military objection to the passage of the inclosed act, to authorize the construction and operation of a railway through the Fort Clark military reservation in Texas. On the contrary, such a road located as may be directed by the Secretary of War will be of great benefit to the military service."

Very respectfully,

L. A. GRANT,
Acting Secretary of War.

Hon. E. C. WALTHALL,
Of Subcommittee, Committee on Military Affairs, United States Senate.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1753.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 17, 1890.—Ordered to be printed.

Mr. MANDERSON, from the Committee on Printing, submitted the following

REPORT:

[To accompany S. R. 122, joint resolution, to print 25,000 copies of the eulogies delivered in Congress on the late James B. Beck, a Senator from the State of Kentucky, of which 6,000 copies shall be for the use of the Senate and 19,000 copies for the use of the House of Representatives.]

The Committee on Printing, to whom was referred the above joint resolution, respectfully report it back with the recommendation that it do pass.

The cost of the printing and binding will be $10,375.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1754.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 17, 1890.—Ordered to be printed.

Mr. MANDERSON, from the Committee on Printing, submitted the following

REPORT:

[To accompany H. Res. 215, joint resolution, to print 25,000 copies of the eulogies delivered in Congress upon the late Samuel J. Randall, a Representative in Congress from the State of Pennsylvania, 6,000 copies for the use of the Senate, 19,000 copies for the use of the House of Representatives, and that of the quota of the House fifty shall be set apart and bound in full morocco for the family of deceased.]

The Committee on Printing, to whom was referred the above joint resolution, report it back with the recommendation that it do pass.

The cost of the printing and binding will be $10,375.

O

51st Congress, 1st Session. | SENATE. | Report No. 1755.

IN THE SENATE OF THE UNITED STATES.

September 17, 1890.—Ordered to be printed.

Mr. Manderson, from the Committee on Printing, submitted the following

REPORT:

[To accompany H. Res. 184. Joint resolution to print 10,000 copies of the eulogies delivered in Congress upon the late Newton W. Nutting, a Representative in the Fifty-first Congress from the State of New York.]

The Committee on Printing, to whom was referred the above joint resolution report it back with the recommendation that it do pass.

The cost of the printing and binding will be $4,500.

O

51ST CONGRESS, 1st Session. } SENATE. { REPOR No. 175

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 17, 1890.—Ordered to be printed.

Mr. MANDERSON, from the Committee on Printing, submitted the fo lowing

REPORT:

[To accompany H. Res. 170. Joint resolution to print 10,000 copies of the eulogi delivered in Congress upon the late David Wilber, a Representative in the Fift first Congress from the State of New York, of which ,500 copies shall be for t use of the Senate and 7,500 copies shall be for the use of the House of Represent tives, and that of the quota of the House 50 copies shall be reserved by the Publ Printer to be bound in full morocco for the family of deceased.]

The Committee on Printing, to whom was referred the above joi resolution report it back with the recommendation that it do pass.

The cost of the printing and binding will be $4,500.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1757.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 18, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 435.]

The Committee on Pensions, to whom was referred the bill (S. 435) granting a pension to Malinda Collins, have duly considered the same and submit the following report:

The claim No. 251060 of Malinda Collins, as the widow of James L. Collins, a private in Company A, Sixth Regiment Union Provisional Enrolled Missouri Militia, and Company H, Seventy-fourth Enrolled Missouri Militia, was rejected by the Pension Office on June 25, 1883, on the ground that the name of James L. Collins is not borne on the rolls of Company A, of the Sixth Provisional Enrolled Missouri Militia, as shown by the records of the War Department and of the adjutant-general's office of Missouri. The evidence on file in the Pension Office was obtained and additional evidence was also submitted to your committee. The reports from the adjutant-general of the State of Missouri and from the Adjutant-General of the War Department show that the name of the soldier, James L. Collins, can not be found upon the records in their offices.

The evidence before your committee clearly establishes that the claimant is the widow of the said James L. Collins.

Your committee had before them the affidavits of D. F. Wilson, James Callison, and Joseph P. Mason, who were comrades of the said James L. Collins, and members of the same company and served with him, and also the affidavits of John P. Richardson and John W. Richardson. John P. and John W. Richardson testify to knowing that the said Collins was in the military service, and to seeing him shortly before he was captured and shot. The comrades above named testify positively that they belonged to Company A, Sixth Provisional Enrolled Missouri Militia, and that the said Collins was also a member of said company, and some of them were messmates with him and were present when he was enrolled.

The witness Mason says that the said Collins enlisted in Capt. John Small's company (H), Seventy-fourth Enrolled Missouri Militia, and served in said organization until killed in 1863.

Mr. Callison says that Mr. Collins was sent from Springfield, Mo., to Greenfield, by order of Capt. Green Phillips, and was taken prisoner by the enemy and paroled, and Mr. Wilson in one of his affidavits states that he knew Mr. Collins when enrolled in Capt. John Small's company (H), of the Seventy-fourth Enrolled Missouri Militia, and that he was a member of said company and regiment, and that at the time of James L. Collins's death they were under the command of Capt. Green Phillips.

There were different military organizations in Missouri, and some of these organizations were merged or consolidated into others, which reasonably well accounts for the different statements in regard to the company and regiment in which this soldier served. The evidence clearly establishes that this soldier was in the military service performing military duty, was captured and paroled, returned to his command, and was again captured and shot.

Under the general law no pension could be granted to this widow on account of the death of her husband in the service in the line of duty, on account of the military organization to which he belonged; and even, if his name had been found duly enrolled upon the records of said company and regiment, still the pension could not be granted.

It has been the rule of your committee in these cases where the military organization was defective and yet the soldier belonged to it and was actually performing military duty, and whilst in such performance lost his life or was disabled by wounds received in battle, to grant a pension in case of his death to his widow, and to himself in case of mere disability.

Your committee believes this case comes under said rule, and therefore report the bill back to the Senate favorably and recommend its passage.

51st Congress. 1st Session. | SENATE. | Report No. 1758.

IN THE SENATE OF THE UNITED STATES.

September 18, 1890.—Ordered to be printed.

Mr. Turpie, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 1040.]

The Committee on Pensions, to which was referred the bill (S. 1040) granting a pension to Thomas H. Wilkerson, have duly considered the same and submit the following report:

The claimant was a private in Capt. John W. Biven's company of Arkansas Union Home Guards, attached to the First Regiment of Arkansas Cavalry of the Union Army, and under the general laws the soldiers of this State organization are not allowed pensions, and this soldier can obtain no relief at the Pension Office.

In behalf of the claim of this soldier for pension, there have been submitted to your committee the affidavits of the claimant, and of George W. Rowe, James A. Jay, John B. Clements, and of Dr. James M. Wilkerson, who were comrades of the said soldier in the same command, and of Dr. R. W. Paris, Dr. J. M. Allison, and Dr. William C. Wilkerson. These affidavits conclusively show that the claimant was a member of the said company and regiment, and on or about the 25th of September, 1864, near Huntsville, in the State of Arkansas, whilst in the service in the line of duty and in an actual combat or engagement with the enemy, received a gunshot wound in the right side of the head. Dr. Paris states that he made an examination in 1889, and found this gunshot wound "about one and one-fourth inches outside the outer canthus of right eye and about parallel with that organ. Under the sacatrics can be felt the oval aperature through the upper part of the sphenoid bone through which the ball passed, and probably rests at the base of the brain near jugular foramen. By the direction the ball seemed to have entered the cranium and infringes on the spinal accessory nerve, as the claimant shows a lack of use of the muscles that the spinal accessory nerve supplies."

Dr. Allison examined the wound in November, 1889, and found "an ancient gunshot wound just above the zigomatic arch, about one inch from the outside corner of the right eye. The ball seems to have lodged about one inch and a half above and behind the ear of the same side, between the skull bone and the membranes of the brain. The irritation from the effects of the ball extends into the muscles of the neck, producing pains, stiffness, and soreness, and the sufficient cause why the claimant should be totally disabled from hard manual labor."

Drs. James M. Wilkerson and William C. Wilkerson were present ve soon after the wound was received, one of them being in the same co mand, and gave him medical treatment and performed an operation t find the ball, but failed to find it. The ball is still in the claimant head, and he suffers from the effects of the wound and is disabled fro the performance of manual labor.

All the witnesses testify as to the disability of the claimant to p form manual labor.

It has been a universal rule of your committee to grant pensions cases of this character. Your committee therefore report this bill ba to the Senate favorably and recommend its passage.

O

51st Congress, 1st Session. | SENATE. | Report No. 1759.

IN THE SENATE OF THE UNITED STATES.

September 18, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9316.]

The Committee on Pensions, to whom was referred the bill (H. R. 9316) granting an increase of pension to Thomas G. Boss, have examined the same and report:

This bill was passed by the House on the 15th of August. The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9316) granting an increase of pension to Thomas G. Boss, submit the following report:

That the claimant is now receiving a pension of $24 per month for a gunshot wound of head received at Atlanta, Ga., July 24, 1864; that as the result of such wound the claimant is nearly blind, and that the wound has never healed and still discharges. Mr. Boss is now over sixty years old and totally unable to work; is almost blind and suffers constantly from pains in the head. The claimant appeared before your committee, and in their judgment there is no doubt of the truth of his statements.

In view of the above, and the fact that the Pension Office can only give him $30 per month, your committee recommend the bill do pass.

There are some very strong additional facts in substantiation of this claim found in the affidavits of physicians who have attended the claimant for a number of years, which show that his injuries are referable to his service, that they are completely disabling, and that he is a constant sufferer.

From the affidavits of Drs. Van Wagner and Crandall it appears that he was wounded by a ball passing in three-fourths of an inch below the angle of the left eye, out at the opposite side of the head, forward of the ear. At the present time this wound is not healed, and it discharges gangrenous matter constantly, so that he requires much care and attention. From this wound his suffering is continuous and progressive. For a long time his sight has been much impaired and is gradually failing. It is apparent that a man in his condition is incapable of supporting himself by any description of employment.

Mr. D. G. James, a respectable citizen of Wisconsin, well known to the Senator who makes this report, in a recent letter says:

I am personally acquainted with T. G. Boss; saw him shot through the head and left on the field supposed to be dead; served with him two years in the same company and know him to have been a good soldier, having been wounded twice.

The bill is reported favorably, with a recommendation that it do pass.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1760.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 18, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany H. R. 1614.]

The committee, after an examination of this bill for the relief of James B. Guthrie, have concluded that the claim is a just one, and adopt the House report, which is as follows:

HOUSE REPORT.

James B. Guthrie was postmaster at Paris, Tenn., in 1875, and on the night of September 11, 1875, his office was broken open by burglars and $390 in money-order funds taken from the drawer where he kept his funds. He filed his claim again in 1883 in the Post-Office Department, under the act of 1883, for adjudication and allowance, having promptly settled with the Department the full amount charged against him and having previously failed to get credit for the amount stolen from him as stated.

The Assistant Attorney-General of the Post-Office Department, in recommending the disallowance of the claim, after setting forth the evidence, delivered the following opinion:

"The fact of the burglary is sufficiently proven, and it appears that the claimant exercised what was, at least in his opinion and that of his neighbors, due caution and care for the protection of the property in his charge. There is, however, aside from the claimant's own statement, no proof that the money for which credit is claimed was stolen; and although the evidence as to claimant's integrity and correct habits is such as to carry with it the moral conviction that his statement concerning the loss is true, I am of the opinion that it is not such as to establish his claim within the contemplation of the statute."

While it is true that claimant has no other evidence as to the loss but his own oath, he accounts for the absence of the usual written evidence by the statement that his successor in office destroyed all the old papers in the office, as he claimed, under the direction of an agent of the Post-Office Department, and among the old papers left in the office as a part of its records when Mr. Guthrie retired was the written evidence which he kept of all remittances to the Department. Mr. Williams, his successor, is now dead, and of the three persons who usually witnessed the counting and sealing of money for him one is dead and the other two testify to the fact that they did at various times witness for him, though they can not recall dates. Every statement made by the claimant as to the burglary is fully corroborated and sustained, and his general character is fully sustained by his neighbors and the public officials of his county.

From the evidence in the case, taken as a whole, the committee are of the opinion that Mr. Guthrie sustained the loss as claimed, and they recommend the passage of the bill for his relief.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1761.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 18, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 4370.]

The Committee on Pensions, to whom was referred the bill granting a pension to John M. Dunn, late first lieutenant in Company C, First Delaware Infantry, have examined the same and report:

That he enlisted immediately upon the call of President Lincoln in April, 1861, as a private in the First Delaware Volunteer Infantry and served therein for three months, until the regiment was mustered out, when on September 12 he re-enlisted as corporal of Company K, in the First Delaware Regiment Volunteer Infantry, for three years. This regiment went through the war after Antietam with conspicuous gallantry and loss of life. With it Lieutenant Dunn took part in the following battles: Capture of Norfolk, Antietam, Fredericksburgh, Chancellorsville, Gettysburgh, Mine Run, Bristow's Station, Wilderness, Hatcher's Run, Petersburgh, White Oak Road, High Bridge, and Farmville.

Mr. Dunn was appointed sergeant December 1, 1862. He re-enlisted as a veteran volunteer December 18, 1863; was appointed first sergeant May 12, 1864; was mustered in a first lieutenant of Company E November 20, 1864, and was mustered out and honorably discharged as such with that company July 12, 1865.

His regiment at Gettysburgh, as a part of Hayes's Division, Second Army Corps, held a part of the front attacked by Pickett in his famous charge. Seville's history of "The First Delaware" says:

> When the rebel charge was broken and their ranks fell into disorder the First Delaware sprang over the stone wall *en masse* and charged with the bayonet upon the rebel fugitives, headed by Color-Sergeant John M. Dunn with the National flag. A hand to-hand conflict ensued in which hundreds of prisoners were sent to the rear.

In the battle of the Wilderness Sergeant Dunn, in the celebrated charge of Carrol's Brigade, Hancock's Corps, had his foot and ankle caught in the breastworks and was so severely disabled as to have to go to the hospital at Wilmington, Del. While at the hospital the battle of the Monocacy was fought and Sergeant Dunn was appointed a first lieutenant in Company C, Seventh Delaware Volunteer Infantry, which served as an emergency regiment at Havre de Grace and Baltimore for thirty days.

Upon his recovery and his return to the First Delaware on November 14, 1864, he was mustered in as first lieutenant of Company E, and was as such mustered out and honorably discharged with that company on July 12, 1865. With the regiment and the Second Army Corps he took part in the final actions that resulted in the surrender of Lee.

His part in the battle of High Bridge is thus spoken of in Seville's History of the First Delaware Regiment:

In this gallant charge across the railroad bridge Lieut. John M. Dunn, in command of Company G, rendered important service in leading the assault. General Barlow was urging the troops that had reached the end of the bridge to charge through the carriage-way beneath the railroad track, which was defended by the enemy at the other end with artillery and musketry, and there was some hesitation about taking the lead, when a part of our regiment supporting the skirmish-line arrived on the spot. Seeing the reluctance to enter the bridge Lieutenant Dunn asked Lieutenant-Colonel Nicholls if he should take his company and charge across the bridge, at which General Barlow said: "Yes, lieutenant; I wish you would." Company G at once plunged into the bridge, led by the lieutenant, and followed by many others of the First Delaware and other troops. The charge was successful and the bridge was saved, though at the sacrifice of many brave men, for the fire that swept it was terrible. For this gallant deed Lieutenant Dunn and the noble company which he temporarily commanded were highly complimented by General Barlow and Lieutenant-Colonel Nicholls.

Lieutenant Dunn's last battle was the final one of the rebellion, in which the lamented General Thomas A. Smith, theretofore colonel of the First Delaware, was killed, the last general officer to fall in the war.

Lieutenant Dunn, while serving with the Seventh Delaware Volunteer Infantry, at Havre de Grace, Md., as first lieutenant of Company C, was detailed to scout around the country for rebel fugitives, of whom many were drifting north from Early's army at that time. While on this duty he suffered a sunstroke and was brought back to camp in an unconscious and raving condition, and was again sent to the hospital at Wilmington, Del., where he remained until he had recovered sufficiently from this stroke to return to the First Delaware on November 14, 1864. His physicians now find that he is under total disability for work or self-maintenance from congestion of the brain caused by the effects of the sunstroke above mentioned.

The committee recommend that the bill be amended as follows: By striking out the letter "K" in the sixth line and inserting the letter "C," and striking out the word "Sixth" in the seventh line and inserting the word "Seventh," and by striking out the word "fifty" in the ninth line and inserting the word "seventy-two," and that the bill so amended do pass, thereby granting Lieutenant Dunn a pension of $72 per month, in lieu of one of $4, which he now receives because of the injury to his ankle at the battle of the Wilderness.

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51st Congress, 1st Session. | SENATE. | Report No. 1762.

IN THE SENATE OF THE UNITED STATES.

September 19, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10634.]

The Committee on Pensions, to whom was referred the bill (H. R. 10634) granting a pension to Clark Stewart, have examined the same and report:

The report on which this bill was passed by the House is concurred in, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10634) granting a pension to Clark Stewart, submit the following report:

The beneficiary enlisted May 24, 1861, in Company D, Fifteenth Regiment Illinois Infantry, and was discharged October 18, 1862, because he was then unfit for military duty

The evidence shows very clearly that at the time of enlistment he was in all respects a sound and healthy man, and that while in service he was a brave and faithful soldier. He filed a claim for a pension on the ground of a wound received from a musket-ball, chronic diarrhea, and also an injury to his right eye, received in battle. The claim for injury to his eye was rejected by the Pension Office for the reason that the injury was received subsequent to his discharge.

The evidence shows conclusively that at the battle of Shiloh he received a serious injury to his right eye from a flash of gunpowder, thereby causing it to become much inflamed, swollen, and weak, and also affecting the other eye. That this was the condition of his eyes on his return home after his discharge and while he remained at his home, and until he went to the city of New York, where his eye was treated by Dr. Abrams, a distinguished oculist of that city. It became necessary to remove his right eye in order to save the other, but the sight of the left eye is very seriously impaired, and the prospect is that he will become entirely blind. The right eye was slightly injured while he was in the city of New York as above stated, but it is clear that this injury was insufficient to destroy the eye, and if his eye had not already been affected it is probable that the injury would not have been received.

Your committee believe the claim to be a meritorious one and therefore recommend that the bill do pass with the amendment striking out the word "fifty" in the sixth line and inserting in the place thereof the word "forty."

The bill is reported favorably with a recommendation that it do pass.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1763.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 19, 1890.—Ordered to be printed.

Mr. STOCKBRIDGE, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany S. 1531.]

The Committee on Naval Affairs, to whom was referred the bill (S. 1531) for the relief of the estate of John Ericsson, have had the same under consideration, and beg leave to report:

By an act of Congress, approved March 3, 1839, it was made the "duty of the Secretary of the Navy, under direction of the President, to make preparation for and to commence the construction of three steam-vessels of war, on such models as shall be most approved, according to the best advices they can obtain, or to complete the construction of such vessels of war upon a model so approved as in the opinion of the President shall be best for the public interest and most conformable to the demands of the public service," and to enable the Department to carry into effect this requirement an appropriation of $3,000 was made.

By an act of Congress, approved July 20, 1840, a similar appropriation of the further sum of $340,000 was made for the purpose of completing the two steam-vessels which had been commenced.

By an act of Congress, approved March 3, 1841, an appropriation of the further sum of $400,000 was made to be expended in building and equipping war vessels of medium size.

On the 11th day of September, 1841, the Secretary of the Navy, by a letter of that date, addressed to the president of the Navy Board, directed the Board of Navy Commissioners to cause to be built two steam-vessels of war, one on Captain Stockton's plan, not exceeding 600 tons, and one on that of Lieutenant Hunter, not to exceed 300 tons. Afterwards the Acting Secretary of the Navy, by a letter dated the 22d of September, 1841, addressed to Capt. R. F. Stockton, U. S. Navy, informed him of the direction which had been given to the Board of Navy Commissioners, and ordered him to superintend the building of the steamer of 600 tons, under the direction of the commandant of the navy-yard at Philadelphia, making to him from time to time such suggestions as he (Captain Stockton) might think proper.

Captain Stockton, in a letter to the Secretary of the Navy, dated May 20, 1844, states how he became acquainted with Capt. John Ericsson, etc., as follows:

> That the Government may have a proper understanding of the true position of Captain Ericsson towards the Government and myself in regard to any demand he has made or may make for the services before alluded to, however eminent and laborious they may turn out to be, it seems proper to state some of the circumstances connected with my first acquaintance with him and his subsequent visit to the United States.

Previous to my acquaintance with Captain Ericsson I had proposed to the President of the United States and the Navy Department to construct a steam-ship of war whose machinery should be entirely out of reach of shot. Pursuing my inquiries on this subject a few years afterwards in England, I was informed by Mr. Francis B. Ogden, our consul at Liverpool, that a very ingenious mechanic by the name of Ericsson had been devoting much time and attention to the matter of submerged wheels. He afterwards introduced him to me. Subsequently I had constructed in England, under his immediate superintendence, an iron boat with the submerged wheels, and which boat was afterwards sent to the United States. I also had constructed, under his direction, an engine similar to the one now on board the *Princeton*, which was also sent to the United States. Having obtained these two models, I took my leave of Captain Ericsson, not knowing that I should ever see him again. I had no idea that Captain Ericsson intended to come to the United States until I received a letter from him announcing his arrival in New York.

Ten days after receiving the letter from the Acting Secretary of the Navy, of September 22, 1841, ordering him to superintend the building of the steamer of 600 tons (afterwards called the *Princeton*), Captain Stockton addressed to Captain Ericsson the following letter:

PHILADELPHIA, *October* 2, 1841.

My DEAR SIR: I will meet you at the depot at Princeton on Tuesday morning if you can make it convenient to dine with me on that day; you may return to New York in the night train. I have received orders to build a ship of 600 tons; I have remonstrated against it. In the mean time I wish to converse with you on the subject.

R. F. S.

Captain ERICSSON,
Astor House, New York.

The interview took place between them, and six days later, October 8, 1841, Captain Stockton wrote the following letter to Captain Ericsson:

DEAR SIR: I wish you would make the drawings of a ship with dimensions we spoke of. I will go to Washington as soon as you can send them to me. Put both the bow and the stern to her, and make her midship section according to the plan we spoke of at my house.

Yours,

R. F. STOCKTON.

Captain ERICSSON,
Astor House, New York.

In many subsequent letters Captain Stockton gave Captain Ericsson further and more particular instructions in regard to the drawings which he desired him to make. Captain Ericsson complied with the request of Captain Stockton in all respects, and also many others of his own inventions which entered largely into the ship, and performed the services specified in detail in Schedule A, found in printed memorial of John Ericsson to Congress, on file with this committee and known as Exhibit A in Court of Claims proceedings.

Captain Ericsson devoted four hundred and twenty days to this work of making drawings of machinery, armament, gun-carriage, etc., and superintending the construction thereof, and paid out a large sum of money for office rent, instruments, stationery, postage, traveling, and other expenses. This Schedule A is convincing proof of the enormous labor performed by Captain Ericsson and the reasonable amount of his claim as therein stated in full detail.

The ship *Princeton* was constructed according to the drawings and inventions of Captain Ericsson and largely under his personal superintendence, and the result was entirely satisfactory to Captain Stockton, and highly advantageous to the United States. Captain Stockton reported her to the Secretary of the Navy as a "full-rigged ship of great speed and power, able to perform any service that can be expected from a ship of war." (See his letter, Exhibit A, p. 24.)

On the 8th of April, 1844, Captain Ericsson transmitted his account for services rendered in planning and superintending the construction

of the steam machinery of the U. S. steamer *Princeton* to the Secretary of the Navy, being for $15,080, which was for the repayment of his expenditures and compensation for his time and labor in the service of the United States, and not a dollar for patent rights. This claim was rejected by the Secretary of the Navy after reference to Captain Stockton, who declined to approve it. After the Secretary of the Navy had rejected his claim Captain Ericsson memorialized Congres (Exhibit A), and subsequently filed his petition in the Court of Claims.

After the taking of testimony and a full hearing, the Government being represented by able counsel, the Court of Claims gave a unanimous opinion in favor of the full amount of the claim, after deducting $1,150, which was acknowledged to have been received by the petitioner (H. Rep. Reports Court of Claims, 1856–'57).

After stating the preliminary facts, much as herein stated, the court concludes its opinion as follows:

On the 14th day of March, A. D. 1844, the petitioner presented his claim (Schedule A) for compensation for services to the Secretary of the Navy, and on the 11th day of May, A. D. 1844, it was rejected, on the ground that Captain Stockton, in a letter to the Secretary of the Navy, had stated as follows: "In regard to Captain Ericsson's bill, which was sent to me at the same time, I must say that, with all my desire to serve him, I can not approve his bill; it is in direct violation of our agreement as far as it is to be considered a legal claim upon the Department." (See Schedule F of Exhibit A.)

In a subsequent letter from Captain Stockton to the Secretary of the Navy, he further stated: "That it has given me great pleasure to acknowledge, upon all proper occasions, the services of Captain Ericsson's mechanical skill in carrying out my well-intended efforts for the benefit of the country." * * * "I have invariably given him to understand in the most distinct manner whenever the subject was alluded to that I had no authority from the Government to employ him, and that if he received anything that it must be altogether gratuitous on the part of the Government; that, considering the great opportunity that he, as an inventor, would have to introduce his patent to the world by the aid of the funds of the Government, I did not think it proper for him to make a charge for their application to the *Princeton*; in all of which he has concurred, as far as I know, up to the time of the presentment of his extraordinary bill." (See BB of Exhibit A.)

In a letter from Captain Stockton to the petitioner, written in July, A. D. 1841, he says: "In making up the estimate for the cost of the ship, it will be necessary to consider what must be put down for the use of your patent right. It will be necessary, therefore, for you to write me a letter stating your views on that subject. As a great effort has been made to get a ship built for the experiment, I think you had better say to me in your letter that your charge will here after be (if the experiment should prove successful) ——; but, as this is the first trial on so large a scale, I am at liberty to use the patents, and after the ship is tried, Government may pay for their use in that ship whatever sum they may deem proper." In reply to this letter the petitioner, in a letter to Captain Stockton dated the 28th day of July, A. D. 1841, said: "I have duly received your communication on the subject of my patent right for ship-propeller and semi-cylindrical steam-engine, in reply to which I beg to propose that, in case these inventions should be applied to your intended steam frigate, all considerations relating to my charge for said patent right be deferred until after the completion and trial of the said patent propeller and steam machinery. Should their success be such as to induce Government to continue the use of the patents for the Navy, I submit that I am entitled to some remuneration; but considering the liberality that thus enables me to have the utility of the patents tested on a very large scale, and the advantages which can not fail to be derived in consequence, I beg to state that whenever the efficiency of the intended machinery of your steam frigate shall have been fully tested, I shall be satisfied with whatever sum you may please to recommend, or the Government see fit to pay, for the patent right." (See Nos. 12 and 13 of Exhibit A).

In a letter from Captain Stockton to the Secretary of the Navy, dated February 7, A. D. 1853, he refers to his letter of May 20th, A. D. 1844, and, amongst other things, says: "In that letter I stated the nature of Captain Ericsson's services, and the extent of the Department's obligation to him, and admitted his claim to such compensation from the Government as, under the circumstances, he may be entitled to.

"Time and reflection have not diminished, but rather increased, my estimate of the nature of Captain Ericsson's services, and I have now the honor to reiterate my former

opinion, and further to say that the Government should make him a fair and reasonable compensation for his time and expenses while engaged in superintending the construction of the *Princeton's* machinery, etc."

The services rendered by the petitioner were reasonably worth the amount charged by him, to wit, the sum of $15,080. (See the deposition of Charles W. Copeland.)

The question now presented for our consideration is, whether, under these circumstances, the petitioner is entitled to relief. He has shown that it had been determined by the proper authority, in pursuance of law, to build the steamer *Princeton*, and that to effect that object on the plan proposed, and on which she was in fact constructed, the very services rendered by the petitioner to be performed either by him or some other person were indispensable. It is insisted, however, that the services of the petitioner were rendered gratuitously. If this be true, then the petitioner's claim can not be sustained.

In support of the proposition that the petitioner's services were rendered gratuitously, it is urged (1) that he was not employed by any person duly authorized to employ him, and (2) that the testimony of Captain Stockton is direct and positive that they were thus rendered. *Nemo præsumitur donare*, and this maxim applies with great force to a case like the present, where the object on which the bounty is to be bestowed is a great and powerful government in possession of abundant means for all its legitimate purposes.

That the determination to build the steamer *Princeton* precisely on the plan on which she was built was made by the proper authority, under an adequate appropriation, is not disputed, and is in fact indisputable. It is equally clear that it was not expected that her construction could be effected without an outlay of money. In order to carry out the object contemplated, it was necessary to employ proper agents and to invest them with the authority requisite for the purpose. Accordingly we find the Secretary of the Navy giving orders to Captain Stockton to superintend the building of the steamer under the direction of the commandant of the navy-yard at Philadelphia, and to make to him from time to time during the progress of the work such suggestions as he might think proper. If, then, this order was obeyed, she was lawfully built, and everything done in connection with her construction was lawfully done.

That the petitioner rendered the services for which he claims compensation is undisputed. But it is insisted that if Captain Stockton had no authority to make such a request so as to entitle the petitioner to compensation, except under the direction of the commandant of the navy-yard at Philadelphia, he was guilty of a violation of duty. And, moreover, if this direction was essential to the validity of such a request, then it was also essential to authorize Captain Stockton to accept the services of the petitioner, though tendered to him gratuitously. But it is to be presumed that Captain Stockton, in all that he did, acted in the line of his duty, and not in violation of it. No complaint has ever been made against him by the Government, whose agent he was, but on the contrary, the payment of the petitioner's claim was made, by the very authority under which Captain Stockton acted, to depend upon his report. It must be intended therefore, that, in making the request on which the petitioner's services were rendered he acted by proper authority. If the direction of the commandant at the navy-yard at Philadelphia were necessary, it will be presumed. The Secretary of the Navy himself, in rejecting the petitioner's claim, recognized Captain Stockton as the trusted and duly authorized agent of the Government in the premises. There is, then, no room for question that what the petitioner did was lawfully done, and that his services were rendered at the request of an officer duly authorized to make it. He did not officiously intermeddle with the great public work which was going on. It would, indeed, be a most offensive imputation upon the characters of the honorable men under whose superintendence and direction it was carried on and completed, even to suppose that he could have done so if he had desired. The only point of inquiry, therefore, is, did the petitioner render his services gratuitously?

The letter from Captain Stockton to the Secretary of the Navy of the 20th of May, A. D. 1844, is explained by his letter to the same officer of the 7th of February, A. D. 1853. If we take the former according to its strict literal interpretation, Captain Stockton may be understood not only as having denied that he had any authority to employ the petitioner, but also as having asserted that the petitioner volunteered his services and rendered them gratuitously. But he did not mean either the one or the other, as is apparent from the consideration that if he did the two letters would be in conflict with each other. In his letter of the 7th of February, A. D. 1853, he expressly says that in his letter of the 20th of May, A. D. 1844, he stated "the nature of Captain Ericsson's services and the extent of the Department's obligation to him, and admitted his claim to such compensation from the Government as under the circumstances he may be entitled to.' He meant, therefore, in his letter of May 20, 1844, not only to state an obligation of some kind on the part of the Navy Department to the petitioner, but also to state the extent of that obligation by admitting that he is

entitled to a reasonable compensation for his services. But this is wholly inconsistent with the idea that those services were rendered gratuitously. The first letter, therefore, is not to be literally interpreted. It may not be proper here to add that the letter of the 7th of February, A. D. 1853, was obviously designed to be explanatory of the former letter; and to remove all doubt as to his meaning he in conclusion says: "Time and reflection have not diminished, but rather increased, my estimate of Captain Ericsson's services, and further to say that the Government should make him a fair and reasonable compensation for his time and expenses while engaged in superintending the construction of the *Princeton*'s machinery, etc., etc."

With the first letter thus explained, the whole case is relieved from difficulty. If the Secretary of the Navy, when he received that letter, had understood it according to this explanation, he would not have rejected the petitioner's claim. When Captain Stockton wrote the letter of May 20, A. D. 1844, he was manifestly under the impression that the plaintiff was asserting a special contract for specified services at a fixed price, and he meant to state not only that no such contract had been made, but that he had no authority to make it. It is to such a contract that the whole of the first letter refers. We can very well understand that the petitioner would gladly have availed himself of such an opportunity "to exhibit to the whole world the importance of his various patents," and that to secure it he would have permitted his compensation to depend on the contingency of their success; but we do not suppose that Captain Stockton or any one else desired that if the result should be entirely successful the United States should receive the benefit of the petitioner's services without compensation. Taking the two letters of Captain Stockton together we have no difficulty in coming to the conclusion that the understanding between the petitioner and Captain Stockton was that the petitioner should be permitted "to exhibit to the world the importance of his various patents" in his own way according to his own plans, and that he should receive just such compensation for his services as should be justified by the result. The petitioner agreed to accept a quantum meruit, dependent on the success of his labors.

The petitioner admits the receipt of $1,150. He claims $15,080. We shall report to Congress a bill in his favor for the sum of $13,930.

The *Princeton* proved a wonderful and complete success, largely due to the many new and important features invented and introduced by Captain Ericsson. It is not strange, however, that Captain Stockton wanted the greater part of the glory,—such is human nature. Nine years after the completion of the *Princeton*, he felt that injustice had been done Captain Ericsson in not allowing and paying his just claim. Being an honorable man, he acknowledges the obligations of the Government to the great engineer, and recommends to the Secretary of the Navy "that he be made a fair and reasonable compensation for his time and expenses while engaged in superintending the construction of the *Princeton's* machinery, etc., etc." The Secretary of the Navy was so impressed with this recommendation of Captain Stockton, that he sent the letter to the Finance Committee of the Senate, but the session was near a close and nothing came of it.

A committee of the American Institute made a full and thorough examination of the *Princeton* in all its parts, and concluded their long, detailed report (Exhibit A, page 17) as follows:

In conclusion, your committee take leave to present the *Princeton* as every way worthy the highest honors of the Institute. She is a sublime conception most successfully realized, an effort of genius skillfully executed, a grand, unique combination, as honorable to the country as creditable to all engaged upon her. Nothing in the history of mechanics surpasses the inventive genius of Captain Ericsson, unless it be the moral daring of Captain Stockton in the adoption of so many novelties at one time.

James J. Mapes, secretary of said institute, and an eminent engineer, after a full and exhaustive examination of the steamer *Princeton*, and a careful examination and study of the bill rendered to the Navy Department by Captain Ericsson, as detailed in Schedule A, Exhibit A, on oath declares, "That there is no other engineer in this country so capable of such services as Captain Ericsson, and that his charges are much less than would have been made by many engineers of less ability, and

that $15,000 is a very moderate, if not altogether inadequate remuneration for services of such variety and extent." Several other engineers testify to the same thing. Suffice it to say, that the Court of Claims, after careful study of all the evidence presented, thought and said that the compensation claimed by Captain Ericsson, was no more than adequate and reasonable for the services performed and the money expended by him for the United States.

The question may be asked why this claim has been allowed to sleep so long. Simply because Congress is not swift in hunting for buried claims, and rarely acts, unless persistently urged to do so, even in the most meritorious cases. Captain Ericsson, though one of the greatest marine engineers that ever lived, if not *the* greatest, was a peculiar man, proud, sensitive, and stubborn, and for a long time he refused to allow his friends to push this claim before Congress. He felt that the Government had wronged him, in that it had not paid his just claim, and he was not willing to beg for what was so justly his own. Honorable and manly he felt that a great Government ought to do right without unseemly importunity.

It is well known that after he had invented the *Monitor*, and his genius foresaw its success, he refused to come to Washington to explain his invention to the Navy Department because he felt that the Government had wronged and neglected him in the *Princeton* matter. Finally an appeal was made to his pride, and he came to Washington and explained his great invention to several of the leading naval officers, some of whom had faith in it, and others none. At any rate he made such an impression that an arrangement was made by which the *Monitor* could be constructed by outside capital, to be repaid by the Government if it proved a success. It was completed and manned just in time to meet the iron-clad *Merrimac*, in Hampton Roads, after the *Congress* and *Cumberland* had gone down to a watery grave by the powerful blows of the monster. The country knows the history of the memorable battle between the *Monitor* and *Merrimac*. In less than ten days after the sinking of the wooden ships, had not the *Monitor* appeared, the *Merrimac* would have leisurely steamed to Washington, and the capital of a struggling nation would have fallen into the hands of the enemy. If that had happened, no man can tell what the result of the war would have been.

Captain Ericsson saved the nation, and his name and fame were heralded the world over. The principle of his *Monitor* was adopted by every naval power in the world. This country owes him a debt it can never pay. After his death his executors come here and ask Congress to pay his estate an honest debt, ascertained and due from this Government many years before the invention of the *Monitor*.

The committee believing that the claim is legal and equitable against the United States, report the accompanying bill, with an amendment, striking out all after the word "steamer" in the tenth line, and recommend its passage.

51st Congress, 1st Session. | SENATE. | Report No. 1764.

IN THE SENATE OF THE UNITED STATES.

September 19, 1890.—Ordered to be printed.

Mr. Dolph, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany resolution by Mr. Call relating to swamp lands in Florida.]

The Committee on Public Lands, to whom was referred the Senate resolution, introduced by Mr. Call January 8, 1890, to direct the Secretary of the Interior to report to the Senate all the evidence in the General Land Office touching frauds alleged in the report of the Commissioner of the General Land Office for 1888 to have been perpetrated in regard to the claims of the State of Florida to swamp lands, have had the same under consideration, and respectfully report:

The following is a copy of said resolution:

[Senate Mis. Doc. No. 43, Fifty-first Congress, first session.]

Whereas the Commissioner of Public Lands states in his annual report to Congress as follows:

"In the report for 1888 (p. 45) special mention was made of the frauds that had been perpetrated in regard to the claims of Florida under the swamp grant. There can be no doubt that large quantities of land, amounting to millions of acres, have been patented to this State erroneously as being swamp, when, in fact, they were and are good agricultural lands.

"It would seem that before action is taken for the approval of current claims by this State the lands claimed should be carefully scrutinized and examined by reliable agents of the Government in the field, and that some action should be provided for by Congress to recover for the public domain the lands fraudulently obtained before any more lands are patented under these grants. The total area of Florida is 37,931,520 acres, while the lists already filed from that State amount to 22,221,469 acres, of which amount 16,061,129.98 acres have been patented. Only 711.59 acres were patented to Florida during the past year. I call attention to the fact that no lists have yet been filed for lands in that part of the State most notoriously swampy in character, viz, in the extreme southern part of the peninsula, in the vicinity of the Everglades.

"It is probable, therefore, that in the future several million acres more will be claimed of lands that may be more genuinely swampy than the bulk of those previously claimed.

"It thus appears that fully two-thirds of the public lands in the State have been or will be claimed as swamp, a claim which I am not prepared to admit by any means."

And whereas the trustees of the board of internal improvement of the State of Florida deny the statements of the report and assert that the selections of land under the act of 1850, made since the confirmatory act of 1857, are swamp and overflowed land unfit for cultivation, and that the statements of the report impute a fraud to the State of Florida: Therefore, it is

Resolved by the Senate, That the Secretary of the Interior is directed to report to the Senate all the evidence in the General Land Office touching this subject, and upon which the statements of this report were made.

In response to a letter from the chairman of the committee to the honorable Secretary of the Interior asking for such information as the

Department had upon the subject-matter of the resolution, the Secretary reported by letter, of date June 4, 1890, inclosing a letter from the honorable Commissioner of the General Land Office, and a letter from the honorable Assistant Commissioner, which are appended hereto. In the opinion of your committee these communications contain all the information upon the subject that is of practical value to the Senate, and they therefore recommend that the resolution do not pass.

DEPARTMENT OF THE INTERIOR,
Washington, June 4, 1890.

SIR: I have the honor to acknowledge the receipt of your letter of April 14 last, inclosing a "resolution by Mr. Call in relation to the claims of Florida under the swamp-land grant," and asking what information, if any, the General Land Office has on the subject-matter of the resolution.

In reply I inclose herewith a copy of the report of the Commissioner of the General Land Office, dated the 22d ultimo, and a copy of the letter referred to therein, for your information.

The resolution transmitted by you is returned herewith.

Very respectfully,

JOHN W. NOBLE,
Secretary.

CHAIRMAN OF THE SENATE COMMITTEE ON PUBLIC LANDS.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., May 22, 1890.

SIR: I have had the honor to receive, by reference from the Hon. Cyrus Bussey, Assistant Secretary, dated the 16th ultimo, for report in duplicate and return of papers, a letter of the 14th of the same month, from the Hon. P. B. Plumb, chairman of the Senate Committee on Public Lands, which reads as follows, viz:

"The Committee on Public Lands of the Senate desire to know what information, if any, the General Land Office has touching the subject-matter of the inclosed resolution."

The resolution inclosed by Mr. Plumb reads as follows, viz:

"Whereas the Commissioner of Public Lands states in his annual report to Congress as follows:

"In the report for 1888 (p. 45) special mention was made of the frauds that had been perpetrated in regard to the claims of Florida under the swamp grant. There can be no doubt that large quantities of land, amounting to millions of acres, have been patented to this State erroneously as being swamp, when, in fact, they were and are good agricultural lands.

"It would seem that before action is taken for the approval of current claims by this State the lands claimed should be carefully scrutinized and examined by reliable agents of the Government in the field, and that some action should be provided for by Congress to recover for the public domain the lands fraudulently obtained before any more lands are patented under these grants. The total area of Florida is 37,931,520 acres, while the lists already filed from that State amount to 22,221,469 acres, of which amount 16,061,129.98 acres have been patented. Only 711.59 acres were patented to Florida during the past year. I call attention to the fact that no lists have yet been filed for lands in that part of the State most notoriously swampy in character, viz, in the extreme southern part of the peninsula, in the vicinity of the Everglades.

"It is probable, therefore, that in the future several million acres more will be claimed of lands that may be more genuinely swampy than the bulk of those previously claimed.

"It thus appears that fully two-thirds of the public lands in the State have been or will be claimed as swampy, a claim which I am not prepared to admit by any means.

"And whereas the trustees of the board of internal improvement of the State of Florida deny the statements of the report and assert that the selections of land under the act of 1850, made since the confirmatory act of 1857, are swamp and overflowed land unfit for cultivation, and that the statements of the report impute a fraud to the State of Florida. Therefore, it is

"*Resolved by the Senate*, That the Secretary of the Interior is directed to report to the Senate all the evidence in the General Land Office touching this subject, and upon which the statements of this report were made."

In reply, I have to state that the annual report of this office for 1888, page 45, issued under a former administration, contains the following in reference to swamp selections by the State of Florida, viz:

"The area of the State of Florida is 37,931,520 acres, and the selections of swamp and overflowed land made by the agents of said State reported to this office cover 20,259,389 acres. The selections in many cases embrace whole townships.

"In one of these townships, containing about 20,000 acres, all selected and returned as swamp, and reported as such by former agents of this office August 18, 1879, and patented to the State February 14, 1880, the field-notes of survey, under the most liberal construction that can be placed on them, show but 1,560 acres to be swamp land, and in no case does it appear from the field-notes that anything near the quantity claimed by the State is of the character of land contemplated by the grant."

The total area of the State of Florida is understood to be as stated in the extract from the annual report of this office for 1889, given in the proposed resolution above quoted. That the number of acres selected by that State under the swamp grant and the number of acres so selected which have been patented are as stated in that report appears from the lists of selections on file and the patents recorded in this office. It appears to be the general opinion that a large proportion of the land so selected, much of which has been patented, is not swampy, within the meaning of the statute making the grant, but agricultural land, not intended to be granted thereby. This understanding is apparently based upon a consideration of the total area of the State and the very large proportion which the area selected as swamp, a great portion of which has been patented as such, bears to the total area, it being considered highly improbable that so large a proportion of the State is actually swamp. This conclusion is strengthened by the field notes of surveys and reliable reports, official or unofficial, which from time to time have reached this office as to the actual character of portions of the land so selected. It seems to rest upon what may be called moral evidence—found in the circumstances of the case, as above indicated. To obtain legal evidence of the true character of all the tracts embraced in the lists of selection made, or in the patents issued thereon, many millions of acres would require a great and a costly investigation, covering the whole field, which has not been made, and, therefore, such evidence is not available to be reported to the Senate should the proposed resolution, above quoted, be adopted.

The Hon. W. M. Stone, the Assistant Commissioner, who was Acting Commissioner when the annual report of this office for 1889 was prepared, and who signed that report, addressed a communication to the honorable Secretary, under date of the 9th instant, in which he gives his reasons for the statements made therein on the subject of the Florida swamp-land claims, and I herewith inclose two copies thereof, returning also Mr. Plumb's letter and its inclosure.

Very respectfully,

LEWIS A. GROFF,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., May 9, 1890.

SIR: In answer to your letter of January 25, 1890, referring to this office a communication from the governor and other officers of Florida as "trustees of the internal improvement fund" of that State, complaining of alleged inaccuracies in the report of the General Land Office for the last fiscal year, prepared and submitted by me as Acting Commissioner, having been referred to me by Commissioner Groff, I have the honor to submit for your consideration the following:

The particular grounds of complaint presented in the communication of the said trustees is contained in the following extract from the annual report:

"In the report for 1888 (see p. 45) special mention was made of the frauds that had been perpetrated in regard to the claims of Florida under the swamp grant. There can be no doubt that large quantities of land, amounting to millions of acres, have been patented to this State erroneously as being swamp when in fact they were and are good agricultural lands.

"It would seem before action is taken for the approval of current claims by this State the lands claimed should be carefully scrutinized and examined by reliable agents of the Government in the field, and that some action should be provided for by Congress to recover for the public domain the lands fraudulently obtained before any more lands are patented under these grants. The total area of Florida is 37,931,520 acres, while the lists already filed from that State amount to 22,221,469 acres, of which amount 16,061,129.98 acres have been patented. Only 711.59 acres were pat-

ented to Florida during the past year. I call attention to the fact that no lists have yet been filed for lands in that part of the State most notoriously swampy in character, viz, in the extreme southern part of the peninsula, in the vicinity of the Everglades.

"It is probable, therefore, that in the future several million acres will be claimed of lands that may be more genuinely swampy than the bulk of those previously claimed.

"It thus appears that fully two-thirds of the public lands in the State have been or will be claimed as swamp, a claim which I am not prepared to admit by any means."

Commenting upon the foregoing extract from the annual report, and as embodying the gravamen of their complaints, the Florida officials say:

"It is difficult to understand how a high official of the Government, with the records of his office accessible to him, could make the statement so at variance with the facts, that no lists have yet been filed for lands in that part of the State most notoriously swampy in character, viz, the Everglades.

"The facts are, that long anterior to the date of such report, lists embracing the whole of the Everglades, and the vast area of swamp and overflowed lands contiguous thereto, and within what is known as the Ockeechobee drainage system (the submerged lands contracted to be drained by the Atlantic and Gulf Coast Canal and Okeechobee Land Company) had been filed in the General Land Office. The lands embraced within this list (58) which is the list of 1,962,080 acres referred to by Acting Commissioner, are within the above territory. That these facts may readily appear by a glance at the map, we have caused to be marked upon a map showing the Everglade region of the State and the Okeechobee drainage system on each township therein, the number of the list which contains the unpatented selections within the respective townships, in red figures.

"We have also prepared, and transmit herewith, lists of the selections therein patented and unpatented, giving the township and range and areas; the first designated as list "A," being the patented lands, amounting to 4,818,465 acres, and the second designated as list "B," being the unpatented selections, estimated at 4,498,950 acres. Thus it will appear that 9,317,415 acres have been selected within the Everglade region, and the notoriously overflowed lands embraced in the drainage system contiguous thereto, not going further north than township 25 south.

"In his charge of fraud against the State of Florida, and the statement that 'there can be no doubt that large quantities of land amounting to millions of acres have been patented to this State erroneously as being swamp, when, in fact, they were and are good agricultural lands,' the Acting Commissioner appears to have ignored the fact that there had been selected up to March 3, 1857, 11,630,271.51 acres, which were confirmed to the State by act of Congress of that date, and patents directed to be made therefor (all but a small portion of which have been patented), which was, in effect, a special grant to the State by said act of such lands, eliminating therefrom any question as to their swampy character. This would leave of the patent lands about 5,500,000 in addition to those so confirmed by the act of 1857, of which, as shown by list "A" above mentioned, 4,818,465 acres lie within the Everglade and drainage region. There remains, therefore, only about 631,535 acres of the patented to be accounted for outside of the grant of 1857, and the submerged lands of the Everglade region and drainage system. And we respectfully submit there is no reason to believe that those remaining lands are not swamp as claimed.

"The Acting Commissioner reports the aggregate selections of Florida under the swamp land act to be 22,221,469 acres; of this, 11,630,271.51 acres were confirmed to the State by the said act of 1857, and 9,317,415 acres lie in the Everglade and the drainage system, as aforesaid, aggregating 20,947,686 acres, which being deducted from the total selections leave 1,273,783 acres of selections to be accounted for outside of the Everglade region and drainage system and the grant of 1857, and we do not hesitate to make the statement that there is sufficient land outside thereof 'wet and unfit for cultivation' (the test under the act of 1850) for the selection, without fraud, of that number of acres."

The Florida officers conclude their complaint to the honorable Secretary with the following prayer for relief:

"We have the honor to request that you will take such action as may be necessary to correct the erroneous statement and unjust imputations of fraud contained in the said report of the Acting Commissioner, and that justice may be done the State of Florida in the premises."

Reviewing the foregoing complaint of the governor and his official associates, I may be permitted to say that I fail to perceive in the annual report any expression of phraseology calculated in the slightest degree to reflect upon either the personal or official integrity of the officers named, or upon their predecessors. Certainly it was not designed to impute to State officers any intentional fraud in their swamp-land transactions.

Dealing in general term with a condition of affairs that has, for many years, been the subject of profound concern and of extraordinary embarrassment to this Department, to which former Secretaries and Commissioners have repeatedly called attention, and that the facts connected herewith can not have escaped the knowledge of the State officers and authorized agents of Florida, I deemed it my official duty in submitting the annual report to invite the attention of the present Secretary to the subject. This I endeavored to do in language as appropriate and respectful as the evidence in this office impeaching the integrity of these selections would permit.

In using the terms "fraud" and "fraudulently obtained" I fully understood the recognized difference between fraud in law and fraud in fact. There is no evidence before me justifying the charge that any governor of Florida, or other State officer, has knowingly participated in, or approved of, any frauds in the swamp-land selections now on file in this office or that have been patented to that State. That the governors of Florida, however, have repeatedly urged the approval and patenting of fraudulent selections of alleged swamp and overflowed lands, is established to a degree of certainty that would render a denial of the fact altogether preposterous. There may be fraud in fact, or fraud in law, or both.

If agents appointed by the State make and urge the approval of swamp land selections before this Department, knowing that they are dry and arable, or not knowing with reasonable certainty that they are swamp and overflowed, and thereby secure their being patented to the State, it would be no abuse of technical phraseology to designate it as a fraud in law and fact. If a governor of Florida, misled by his agents, urges upon and secures from this Department the approval and patenting of swamp land selections that are not so in fact, it becomes a fraud in law, because contrary to the declared object and purpose of the grant. In either case, if called upon to characterize the transaction, I should be constrained to say that such patents were "fraudulently obtained."

I do not undertake to say that agents appointed from time to time by the Department have displayed more trustworthiness than those employed by the State; that instances of personal rectitude and sincere devotion to duty have existed among both classes of agents I do not question; yet, with the evidence on the files and records of this office at hand, I am unable to resist the belief that those who have been lacking in these qualities, if not the most numerous, have been by far the most active and successful.

Undeniable facts are abundant to warrant the foregoing observations.

These swamp-land transactions have extended over a period of nearly forty years. They constitute a part of the history of ten administrations of the Federal Government, beginning with that of President Fillmore. During this time swamp-land agents have appeared and disappeared. In the very nature of things I can only comment upon the doings of those who have figured in more recent years. Many of these agents are remembered only among the traditions of the General Land Office and the meager record preserved of their operations. Without descending to details, or attempting to reproduce the statements of different agents, whose reports are on file in this office, I respectfully invite the attention of the Secretary to the following significant and instructive facts upon the subject.

The total area of Florida is 37,931,520 acres, while the lists of alleged swamp and overflowed lands from that State aggregate the enormous amount of 22,221,469 acres, of which 16,061,129.98 acres have been patented—an extent of country about one million acres larger than the combined areas of Connecticut, Massachusetts, New Hampshire, Rhode Island and Vermont, and larger than many of the kingdoms of Europe.

In order that any of this vast area could rightfully have passed to that State, the acts of 1850 and 1857 required that it should have been "swamp and overflowed lands made unfit thereby for cultivation," and such was the only description of lands which Congress intended to grant to the State for reclamation purposes. If this hypothesis be true it certainly presents a novel feature in the topography of Florida. I can not believe it, nor will it be accepted as true by the people of that State. It will astonish the outside world to be informed that nearly two-thirds of Florida is an actual swamp, unfit for cultivation, and necessarily exposed to all the disagreeable and unhealthful influences naturally incident to such regions.

In further answer to the communication of the Florida officers, I respectfully call your attention to the following facts, which I feel assured can not, upon any material point, be successfully disputed.

As shown by our plats, nearly all of the 16,061,129.98 acres already patented are situated north of tp. 37, above Lake Okechobee, and several miles north of the upper line of the Everglades. These patented lands extend entirely across the State from east to west and in the regions where its driest and most arable lands are found. These portions of the peninsula attain an altitude notoriously above the swampy level, and many feet higher than the Everglades.

In these regions, as I am informed, are found the most prosperous agricultural com-

munities in the State and where lands are most valuable and desirable. These lands rarely have water upon them beyond what falls from the clouds, and, if any of them are swamp and overflowed, they are limited in extent and notably exceptional. That over 16,000,000 acres of swamp and overflowed lands, rendered unfit thereby for cultivation, should be found in these upper portions of the peninsula is absolutely phenomenal.

That illegal selections have been made (and by this is meant those that do not come within the meaning of the grant) seems to be understood among the people of Florida. In corroboration of this I cite a resolution unanimously adopted by the senate of that State April 12, 1888, page 113 of senate journal, as follows:

"By Mr. Birrong: Senate joint resolution No. 23, instructing our governor and Senators, and requesting our Representatives, in Congress, to cause an investigation to be made to ascertain as to the legality of selections of swamp and overflowed lands, and have such as have been legally selected patented to the State."

From this it appears that suspicions existed as to the legality of these swamp land selections, and it is to the credit of the honorable senators of the State that they courted investigation on the subject, desiring that patents should issue only for such as have been "legally selected." They certainly were not induced to adopt this resolution by remarks contained in the annual report, which was not published until October following. This resolution was vetoed by his excellency Governor Fleming for the following, among other, reasons therefor:

* * * * * * *

"The Department of the Interior possesses ample means without further Congressional legislation to ascertain whether lands rejected come within the terms of the act of September 28, 1850, and eliminate therefrom any lands which may be improperly selected, and examinations are now being made by the Government as to the State selections; nor is Congressional action necessary to authorize the issue of patents to the State to which she may be entitled."

It is quite obvious that his excellency was not disposed to permit the question as to the legality of these selections to undergo the scrutiny of a Congressional investigation. He preferred to cast the labor and responsibility of such an undertaking solely upon the Interior Department, with its limited means under the inadequate appropriations made therefor by Congress.

Millions of acres of valuable land have unjustly been placed beyond the reach of actual settlers, and given over to illicit purposes of individual and corporate aggrandizement. And in this way also we can in part account for the rapidly diminishing area of our public lands.

In this connection I speak not alone of Florida, as she differed in this respect from some other swamp-land States only in degree.

As serving to illustrate what has been said as to the attitude and conduct of agents, both State and departmental, I cite the Secretary to the following well-known cases:

I quote from the report of Mr. P. W. White and Dr. Mitchell, commissioners of immigration of Florida.

	Acres.
S. I. Wailes, indemnity certificates assigned for services	75,010.22
Sold S. I. Wailes, on his account as State agent at Washington for adjusting land	70,782.97
1881-'82, entered by S. I. Wailes under his contract with trustees of April 13, 1878	21,664.03
Certificate No. 1, being 20 per cent. of the whole amount for recovering same under his contract with trustees	1,072.96
November 1881, 8 per cent. of patents	1,956.92
July 25, 1881	5,800.00
May 31, indemnity certificates assigned S. I. Wailes, agent at Washington	1,667.92
Assigned Mr. Wailes for services	17,141.76
To Mr. Wailes $25,810.36 in land	5,162.07
April 23, Mr. Wailes for services	4,639.51
Total	214,909.37

This magnificent compensation makes the energetic Mr. Wailes one of the greatest individual land-owners in the world.

There is still another item to be considered, as follows:

This gentlemen's contract for these services entitles him to 2 cents per acre for all the swamp lands patented to the State.

The lists of selections now pending aggregate 6,160,340 acres, and if secured will yield him under his contract $123,206.40 in addition to what he has heretofore received, and if we estimate the land at $1 per acre, and that is below the present actual value, it will swell the total of his compensation in this business to the comfortable sum of $338,214. This large sum to one agent alone.

But there are other agents which this enterprising State has in its employ, among whom are the following:

Charles Pomeroy, clerk and agent of L. G. Dennis, has received 5,800 acres for making selections; William Swan & Co., 3,614 acres for making selections; John A. Henderson, 29.580 acres; making in all 253,000 acres of land already paid to agents for making selections and securing approval of the Department, and $140,000 cash yet to be paid, depending upon success. I shall not attempt to give the amounts paid to other agents for similar services. I need not say that these payments of land to agents for their services are in direct contravention of the express condition of the swamp-land grant and a palpable misappropriation of the land.

No one will attempt to dispute the perfect right of the State to employ all the swamp-land agents it may deem necessary and pay them such compensation as it chooses, but I submit that it is a gross violation of the express conditions of the grant to pay them either in swamp land, or indemnity money for their services.

I quote from the act of September 28, 1850, as follows:

"SEC. 1. That to enable the State of Arkansas to construct the levees and drains to reclaim the swamp and overflowed lands therein, the whole of these swamp and overflowed lands made unfit for cultivation which shall remain unsold at the passage of this act shall be and the same are hereby granted to said State."

By the fourth section of said act its provisions were thereby extended to all the States in which swamp and overflowed lands were known to be situated. Under this act Florida acquired her right to these lands.

It will be observed that the grant thus made was for the specific purpose of "enabling the State * * to construct the necessary levees and drains to reclaim the swamp and overflowed lands, made thereby unfit for cultivation, and for no other purpose." Nothing can be plainer.

Section 2 of the act provides as follows:

"* * * And on that patent the fee-simple to said lands shall vest in the said State of ——, subject to the disposal of the legislature thereof: *Provided, however,* That the proceeds of said lands, whether from sale or direct appropriation in kind, shall be applied exclusively, so far as necessary, to the purpose of reclaiming said lands by means of the levees and drains aforesaid."

This evidently is not to pay agents for making selections, or agents for engaging, with their importunities, the time of the chiefs and clerks of the General Land Office. Congress intended that every acre of land and every dollar of cash indemnity should be faithfully and exclusively applied to reclaiming the lands so granted "by means of the levees and drains aforesaid."

I am justified by the observation and experience of the Department in saying that this swamp-land business years ago degenerated into a system of lobbying as offensive as it was disreputable. Under the demoralizing incentive of a contingent compensation for his services, the State agent in his inordinate zeal frequently transgressed the limits of propriety and inadvertently drifted away from the moorings of conscience.

CONDUCT OF SPECIAL AGENTS.

In order to illustrate the character and conduct of some of the agents appointed by the Department to investigate these Florida swamp-land cases, I invite attention to the following report of Capt. J. G. Hester, a special agent of the Department, who, as this office understands it, is an honorable and reliable gentleman, directed to Hon. J. A. Williamson as Commissioner of the General Land Office, dated November 18, 1877, as follows:

"Information has come to me of other wrongs against the United States relative to public lands which I feel would be a neglect of duty were I to permit it to pass unnoticed. I therefore have the honor to invite your attention to the following:

"It appears that 896,915 acres of swamp and overflowed lands were granted to the State of Florida under act of Congress approved September 28, 1850. I refer to list No. 8, selections for the State of Florida, approved June 28, 1876. The lands included in this list are situated mainly in Manatee and Monroe Counties, on the Caloosahatchie Creek, Brush Creek, Peace Creek, Tsalaopopka Creek, Josh Creek, Prairie Creek, Halpatahatchie Creek, Caloosahatchee River, and along the coast of Charlotte Harbor. * * *

"Much of these lands have been sold and not one dollar has been expended as the law requires (section 2480, Revised Statutes), and in fact the lands in question, or at least a very small proportion of them, needed no such drainage, it being nearly all as high and dry as any lands in Florida. As evidence of this fact Mr. R. S. Fuller, of Hainesville, was recently in the State land office at Jacksonville, where he heard Mr. William H. Kendrick, a salesman in the State land office, negotiating the sale of some of these lands, state that he aided in the selection of the said lands, and that they were not overflowed or swamp lands. Any amount of evidence can be obtained

to confirm the fact * * * Evidence can also be had to fully establish the fact that the affidavits upon which the selections in this list (No. 8) are based were false. The facts in the foregoing are the same, to a great extent, in other lists and other grants previously made; this I assert from personal observation.

"Having recently traveled over much of the State land which was granted to the State of Florida, I can positively state that three-fourths of all the land granted to Florida under the act of September 28, 1850, is high dry land and has never been subject to overflow.

"It is perfectly clear that the act of Congress, September 28, 1850, so liberal in its provisions, has been greatly abused by a set of land sharks, swindlers, and railroad rings perverting its true intent and using it to their own personal advantage by making up lists of alleged swamp and overflowed lands and furnishing proof of the same as required by law, which is in most instances wholly or in part false. A recent selection of this kind has been made. I refer now to the list of State selections (No. 101), amounting to 530,176 acres, which I understand has been submitted to the honorable Commissioner of the General Land Office, asking for approval and patent. Three hundred and ninety-one thousand acres of this land is situated on the coast of the Gulf of Mexico, beween latitude 26 and 27, it embraces the mouth of Corkscrew River and Ostego Bay; the greater portion of it is represented by persons who were well informed to be high dry land, and very valuable for the growth of sugar cane and tropical fruits. One hundred and fifteen thousand acres of this land is located on the Atlantic coast, between latitude 25 and 26, and embraces the whole of the coast with some of the adjacent islands from Barnes Sound to Biscayne Bay. It is represented by persons well informed to be high dry land, and only a very small portion of it swamp or in any way subject to overflow; it embraces one of the best harbors on the peninsula, and with slight improvement on the bar would be the best south of Fernandina. Twenty-four thousand one hundred and seventy-six acres is located on the Caloosahatchie River, at the head of navigation, and is represented by persons well-informed to be one of the best timbered bodies of land on that river, and not in any way subject to overflow. It embraces the land around Fort Thompson. It is the head of navigation, and if owned by a ring or set of land sharks would give them the complete monopoly of the timber on the river above that point."

Report of Albert Akers, special agent, to Commissioner Stockslager, September 29, 1888, as follows:

"* * * I proceeded to the State of Florida in the month of January, 1888, and made a personal examination in the field of the lands in question. I was accompanied by a competent surveyor, and other assistants. Two lists were given, to wit, lists No. 27 and No. 44, together with maps and field notes of the original government survey, verified by the Surveyor-General and approved by the General Land Office. All of these lands lie in south Florida, commencing in township No. 46, range 31, and ending in township No. 53, range 32, running to the extreme southern portion of the State bordering on the 'Everglades.'

"Florida is a much larger State than Iowa or Illinois * * * No State in the Union has received as much, in the way of grants from the Government, for works of internal improvement. According to the record of the General Land Office there have been sold 1,832,431 acres; entered under the homestead law about 500,000 acres; granted military services 465,942 acres; officially approved railroad grants —— acres; approved as swamp lands to the State over 16,000,000 acres; granted for internal improvements —— acres; granted for schools and universities 1,000,663 acres; granted to individuals and corporations 53,114 acres; granted to deaf and dumb asylums 20,924 acres; confirmed private land claims 3,262,529 acres.

"The surface of this State is generally undulating, in some cases rising into well defined hills, and the climate is so attractive that from October till May more than 100,000 tourists and invalids annually seek it and convert the State into a pleasure resort and sanitarium.

"The Gulf of Mexico makes up five-sixths of its western boundary. Below the twenty-ninth parallel of latitude the State is a true peninsula. The rainy season is in the summer and it does not consist of steady rains, but of afternoon showers, which come up in the heat of the day with purifying thunder and lightning. This disproportion of summer rain leaves the winter an agreeable excess of clear days.

"Pine is the principal timber of Florida and is of many grades. The first-rate pine land is unlike any soil to be found in other States. The surface soil is usually several inches deep, of light sandy loam, mixed with vegetable mold or humus. Beneath this, to a depth of several feet, is a layer of light soil, resting generally on a final subsoil of clay, marl, or limestone. These first-class pine lands usually bear about sixty to seventy trees to the acre, and the trees are in most cases very large. The land is more or less rolling, well drained, easy to break, and being free from undergrowth is easily cleared. They are the healthiest lands in the State for residence, and experience has shown them to be adapted to the cultivation of the orange and all of the field crops. Other pine lands are more or less interspersed with a growth of oak and

hickory. This variety of land is held by many to be the best for oranges, bananas, and pine-apples.

"Most of all of the lands I have examined in Southern Florida claimed by the State are in a wild state and uncultivated, except here and there a few settlers and squatters waiting to enter homesteads. I found the great majority of these lands dry and fit for cultivation and situated in that part of Florida which, at some near future day, will become very valuable for timber and agricultural purposes. I have been informed that a former agent of the General Land Office had been sent to examine these lands, and he claims to have made an examination of the same and reported them to the General Land Office some time in the year 1879 or 1881, or thereabout, that the claim of the State was good, and that the lands were of the character contemplated by the swamp-land grant of 1850, and that the majority of the tracts were swamp and overflowed. From all the information I could obtain from old settlers and citizens of that part of Florida, J. W. Childs (said agent) had never visited, seen, or examined these lands, nor had he made inquiries in reference to their character and nature. I made diligent inquiry among the settlers and citizens of the county and it was universally conceded that Special Agent J. W. Childs had never made a personal examination or ever inquired about the lands that he afterwards reported to the General Land Office as swamp and overflowed.

"I am informed by two creditable citizens of south Florida, men who have resided in that country for many years and regarded as the oldest citizens of Lee County, that Mr. Childs spent most of his time at Punta Rassa and Fort Myers, and never made an effort to reach these lands except in one instance, when he took a buggy at Fort Myers and traveled some 30 or 40 miles to the interior in the locality of township No. 46, range 31, and reported on sections 19 and 30 of that township.

"It would be impossible to find in the whole State of Florida, not excepting the entire 16,000,000 acres already reported and patented as swamp and overflowed, one township without a few 40-acre tracts that would produce any of the cereals without artificial drainage. The whole thing is a stupendous fraud on its face. Mr. Childs reports more than eleven townships, commencing at section 1 going to section 36, only omitting section 16 (reserved for school purposes) as swamp land unfit for cultivation without artificial means of reclamation, and not one-quarter of a quarter-section (40 acres) would produce tame grass or hay without ditching or some kind of surface drainage.

"It is well known in Florida by all old settlers and citizens that nineteen-twentieths of these lands reported and patented to the State as swamp are high, dry, rolling, and arable lands, free from overflow or swamp. There is no drainage in Florida to amount to anything; the lands that require drainage are not sought after by the State or by individuals. None of the 16,000,000 acres patented to the State, and disposed of by it, show any evidence, as far as I can see or learn, of artificial means of reclamation. What is artificial drainage? Artificial drainage, as considered by the Department, includes anything and everything done to render land drier than it was in its natural state, such as open ditches, blind ditches, and draining with tile, levees and embankments, and surface drainage. * * * The Department has always regarded this style of drainage of sufficient moment to adjust the claims of the several States for indemnity.

"The rule of the Department requires that the special agent shall go over the lands and examine them in person, noting in a book furnished for that purpose the topography of the country and describe the timber, shrubs, grasses, etc., growing on the land, and if there is any evidence of reclamation note that also, describing the same in full, giving the lakes and streams on or near the land, and state what effect, if any, they have upon it; he is also required to make inquiries of persons residing on or near the land of its character at the date of the grant (if any can be found), and if such persons can not be found, of those who have known it for the longest period of time. In a contest between a citizen of Florida and the State over a homestead entry, the question was asked on behalf of the State, when the settler went to prove the tract was not swamp and overflowed, under the act of 1850, how he (the witness) knew the land in question was not swamp and overflowed in 1850; for at that time the country was new and unsettled, and the oldest citizen could only date back to 1860, and no man in south Florida living could give any information as to the true nature and character of the soil when the grant was made, September 28, 1850. The witness, who is a very intelligent man, stated that he could tell by the growth of the timber; and the land in dispute was proven to be pine land, and the decision rendered established a precedent that has been followed ever since, and the growth of the timber always goes to prove the character of the soil at the date of the grant. Out of the great multitude of contests between the citizens and the State, the State has never been known to gain a case, the decision is invariably given to the settler, and very justly so. The State may, by long litigation, drive the poor man from his claim; but it is not because his claim is invalid, but because he has not the means to fight the case to successful termination.

"Pine trees never grow on swamp or overflowed land. Cypress grows on either one, and so willman grove; mangroves only grow in salt water; cypress grows in fresh water only, and the soil must be continuously wet. During my examination of lands in Florida I frequently had to dig wells to obtain a supply of water; this was during the months of January, February, and March. We depended mainly for our water supply on cypress ponds along our line of travel. I have often gone as far as 10 miles for water; it is a well-known fact that we have sometimes traveled 20 miles without finding a drop of water of any sort—not enough for man or beast. This, in a country put down by State selectors and by Special Agent Childs as swamp and overflowed lands unfit for cultivation, until drained by artificial means. * * *

"Another very convincing proof that the lands reported by the State authorities, and passed by the special agents, were never seen or examined by them, is that the lands lie remotely from the coast, and in order to reach them a line had to be run by a surveyor and the trees blazed through a howling wilderness, over obstacles apparently insurmountable, and the only evidence that man had ever passed over the land was the marks on the trees made by the surveyors of the original Government survey. We found these marks with great difficulty, as they were grown over, almost obliterated. It required a surveyor of many years' experience to locate the line. The original survey was in 1872. * * * The field-notes of the Government survey shows a very large majority of the land dry, arable, and covered with forests of pine and other timber.

"The State of Florida did not elect to take the field-notes of the Government survey as a basis of settlement, as some States did, in dividing the swamp and overflowed lands from the dry, but preferred to make her own selections. This opened the door to all sorts of frauds in taking lands that were not of the character contemplated by the grant.

"The State, in making selections of so-called swamp land, never examined the land with a view to ascertain the fact whether or not it was swamp, but reported to the General Land Office all lands desired at the time, commencing at section one and running to section 36, omitting only section 16, reserved for school purposes. This egregious, flagrant, and high-handed outrage on the public domain deserves the highest condemnation. These lands were intended for actual settlers as homes, and to take them for any other purpose is a crime."

In harmony with the conduct of Special Agent Childs, as stated by Mr. Akers, is that of R. V. Ankeny, appointed by the Department in 1879. This gentleman was highly recommended for the position of special agent by prominent citizens of his State, and was supposed to be honest and reliable. He was sent to Florida on proper instructions, to make a special and thorough examination of certain lists of selections filed by that State. In May, 1879, he reported that he had made the proper examinations, and that most of the lands described and included in the list were high and arable. After remaining in the State for several months, he reported that he had made another and further examination of the lands and reported them swampy and overflowed within the meaning of the act of September 28, 1850.

This agent undoubtedly went to Florida with upright intentions, and his very radical change of opinion as to the character of the lands he examined, has never been satisfactorily explained to the Department. What influence the climate of Florida, and association with her swamp-land agents may have exerted upon his judgment, remains a matter of conjecture. I simply state the facts, leaving the Secretary to draw his own conclusions.

These cases serve to show how difficult it is for the Department to obtain entirely truthful and trustworthy information from special agents sent to Florida to make these examinations. Some of these agents, I am happy to say, have shown industry and thoroughness in their examinations, and their reports are regarded as entirely reliable, but I regret to say that such has not been the general rule.

I have endeavored to afford the Secretary all the information upon this subject I could possibly obtain, but the task has been a difficult one. Many reports said to have been made to this office years ago, I have not been able, after much delay and great labor, to find. What has become of them, those now in charge of the swamp-land division are unable to inform us. I am satisfied, however, that no blame in this matter can be justly imputed to the present chief of that division, or to any of the clerks under his charge.

In their communication to the Secretary, the Florida officials further complain of alleged erroneous statements contained in the Annual Report, as follows:

"In his charges of fraud against the State of Florida, and the statement that 'there can be no doubt that large quantities of land, amounting to millions of acres, have been patented to this State erroneously as being swamp, when, in fact, they are and were at the time good agricultural lands,' the Acting Commissioner appears to have ignored the fact that there had been selected up to March 3, 1858, 11,630,271.51 acres, which were confirmed to the State by act of Congress of that date, and patents directed to be made therefor (all but a small portion of which have been patented),

which was in effect a special grant to the State by said act of such lands, eliminating therefrom any question as to their swampy character. This would leave of the patented lands about 5,500,000 acres in addition to those so confirmed by the act of 1857, of which, as shown by list "A," above mentioned, 4,818,465 acres lie within the said Everglade and drainage region. There remains, therefore, only about 681,535 acres of the patented lands to be accounted for outside of the grant of 1857, and the submerged lands of the Everglade region and drainage system. And we respectfully submit there is no reason to believe that those remaining lands are not swamp, as claimed."

In their anxiety to diminish the force of the statement that over 16,000,000 acres of lands, claimed to be swamp, have already been patented to the State of Florida, these officers are compelled to resort to the desperate expedient of perverting the plain purpose and obvious meaning of the act of March 3, 1857. In order to do this they are driven to the unwarranted assumption that said act " * * * was, in effect, a special grant to the State by said act of such lands, eliminating therefrom any question as to their swampy character."

The act of 1857 was what may be properly termed an "Omnibus Bill," passed for the benefit of all the recognized swamp-land States, especially referring to Louisiana and Arkansas. Florida is not even named in the act, and it applies to that State only because it was an act in general terms for the benefit of the several swamp-land States. The title of the act itself sufficiently contradicts this assumption of the Florida officers. The following is the title of said act of March 3, 1857.

"An act to confirm to the several States the swamp and overflowed lands selected under the act of September twenty-eight, eighteen hundred and fifty, and the act of the second of March, eighteen hundred and forty-nine."

It was, by its very terms, an act to confirm to the several States the swamp and overflowed lands selected by them under the acts 1849 and 1850. It was known that under said acts the so-called swamp-land States had made and reported their selections to the General Land Office, and the act of 1857 was passed to confirm them without further delay. It cannot now be ascertained that Congress took any steps to verify those selections, or to determine as to their swampy character; but it did, without examination and without inquiry, undertake to relieve itself from further trouble and responsibility by a general and sweeping act of confirmation.

It is confidently asserted that no act can be found wherein Congress has made a grant of public lands to an individual, corporation, or State, except for a declared and specified purpose, and usually the amount of land intended to be granted had been in some manner clearly expressed, either in an aggregate quantity or by numbered sections, whether odd or even, within defined limits. But, from the very nature of the case this certainly could not be attained in granting swamp and overflowed lands to the States. Hence, by a general provision the lists of selections then on file in the Department referred to were confirmed and granted.

It may not be regarded as disingenuous to say that the Florida officers now, for the first time, assert this claim and for the obvious reason that they are unwilling to face the full measure of the fact that there are, as claimed by them, patented and unpatented selections in a total area of less than 38,000,000 acres, over 22,000,000 acres of swamp and overflowed lands "rendered unfit thereby for cultivation," and because they do not desire to be confronted with this damaging admission in view of their unsettled claim for nearly 6,000,000 acres, now on file in this Department.

So far as this office is advised, Florida is the only State that has made this claim under the act of 1857.

INDEMNITY LANDS.

Included in the lands patented are 92,980.57 acres, given to the State as indemnity for alleged swamp land sold by the Government, as provided by section 2, act March 2, 1855, and claimed to have been swamped and overflowed in September, 1850. While the act of 1855 did not require that these indemnity lands should be from swamp and overflowed, yet it is notoriously true that in selecting them the State picked out the very best tracts it could find, thus obtaining arable and valuable lands for those that were swampy and inferior.

By the said act of March 2, 1855, it is also provided: "That upon proof by the authorized agent of the State or States, before the Commissioner of the General Land Office, that any of the lands purchased were swamp lands, within the true intent and meaning of the act aforesaid, the purchase money should be paid over to the said State or States."

Under this provision there has been paid to the State of Florida up to March 20, 1890, the sum of $69,214.83 in money, representing 70,403.86 acres of land at the graduated prices provided by law.

FLORIDA KEYS.

Still another fact may be cited illustrating the assiduity and admirable tact of these Florida agents. They have not confined their efforts alone to the peninsula, but have gone beyond its limits and invaded the waters of the Atlantic in their persistent hunt for swamp and overflowed lands. It is a noteworthy fact that they have selected 55,544.26 acres, over 22,000 acres of which have been patented, situated upon the Florida Keys, an archipelago or chain of islands along the straits, which begin at Dry Tortugas, its extreme western terminus, running thence in a northeasterly direction entirely around the southern end of the peninsula, several miles in front of its eastern shore. These islands are situated from 6 to 50 miles out from the main land, and are of coral formation generally covered with a sandy soil, in many places showing alluvial deposits that are arable and rich, producing some of the choicest semi-tropical fruits. Occasionally their lowest portions are washed by the waves or covered by high tides. South of these keys, and separated from them by a navigable channel, is a narrow coral reef or ridge, known as the "Florida Reef," which here constitutes the left bank of the Gulf Stream.

From these circumstances, it would appear that these keys are not formations upon which swamp and overflowed lands can exist within the meaning of the granting acts. This proposition is so apparent as to exclude the necessity of illustration or argument.

But their selection as such by her agents seems to show that the State of Florida has been prompt and vigilant in pursuing all the chances suggested to her by the several acts of Congress. Her merest possibilities have been developed into an astonishing measure of success. Over 22,000 acres of the lands selected on the keys have already been patented to the State.

GRANTED TO RAILROADS.

Not only have large bodies of these swamp lands been absorbed by State agents in payment of their services, but an immense area has been donated to railroads and other corporations.

I find in the senate journal of the State, for the year 1889, p. 761, that 9,125,541.69 acres have been conveyed by said State to railroads and canals, by far the largest portion of which being to the former. I shall not enter into a discussion of the question as to the right, under the granting act, of the State to divert these swamp and overflowed lands to the purpose of subsidizing railroads and canals. It is possible that inasmuch as the patents issued by the Department vested the fee-simple title to these lands in the State, it had the power thereby to divert them from the specific purpose expressed in the grant, and that the United States Government retained no power to interfere with such disposal.

In accepting the grant with its limitations and purposes so plainly expressed, the State pledged itself to apply the lands granted to the purposes therein specified. To this the faith of the State was solemnly committed. By providing that the reclamation of these lands should be accomplished by the particular "means of the levees and drains aforesaid," it thereby, under all recognized canons of construction, excluded the idea that the lands granted for that purpose should be used in experimenting with other and untried agencies. It became a trustee for a particular specified trust and was bound to carry that trust into effect according to its terms.

Still another feature worthy of comment is connected with this giving of lands to the railroads and canals of the State. I am informed by citizens of Florida, and others in a position to know the facts, that a large portion of these lands were given to railway companies many miles distant from their respective lines of road. They were not confined to coterminous sections, but were allowed lands varying in distance from 25 miles to over 100 miles therefrom, thus excluding all pretense that they were given for reclamation purposes.

When it is considered that Florida has within her limits, according to her own showing, more than 22,000,000 acres of swamp and overflowed lands, rendered unfit thereby for cultivation, which, by accepting the grant made by Congress, she is under a solemn obligation to reclaim to the extent at least of the means provided for that purpose by the grant, it becomes apparent that she can not divert so large a portion of these lands, and so much of the cash indemnity, without seriously impairing her ability to discharge the obligation she has undertaken to perform. In this view of the case, the people of Florida are themselves doubly and most vitally interested, first, because every acre of land approved to the State as swamp and overflowed, that is not so in fact, is a loss of so much to actual settlers for homestead purposes; and second, because every acre, or its proceeds, should be faithfully and exclusively applied to the reclamation, and rendering fit for cultivation, of all the swamp and overflowed lands *within* her borders.

It was to effectually guard the State against the possible contingency of misappropriation that Congress wisely provided in the grant that every acre of said land, or its proceeds, should be "applied exclusively, so far as necessary to the purpose of reclaiming said land, by means of the levees and drains aforesaid."

I allude to this feature of the case because, in my judgment, it serves to show still more clearly the extent to which the State of Florida has gone in disregarding the provisions of these swamp land grants, rendering still more imperative the necessity for a thorough investigation of her selections, now on file, embracing about 6,000,000 acres in addition to the enormous aggregate already obtained.

LANDS RECLAIMED.

That a very large majority of the lands patented to the State of Florida as swamp and overflowed, have been absorbed by corporations and appropriated to the purposes of corporate and individual aggrandizement instead of being faithfully applied to the purposes of reclamation, as contemplated by the several acts of Congress on the subject, is a fact so clearly established as to place it beyond successful controversy. The evident purpose of Congress was, that the lands granted should be so appropriated as to procure their own reclamation; that is, the identical lands so granted, and it was for this purpose only that the grant was made. It certainly never entered into the contemplation of Congress that they should be diverted from the declared purpose of reclamation and used for corporate or individual profit. Yet, I regret to say that such has largely been the fate of the enormous acreage of the so called swamp and overflowed lands patented to the State of Florida.

In the reports made by the trustees of the internal improvement fund of that State, I find no statement as to the actual number of acres of land that have been reclaimed from their swamp and overflowed condition, and this office has no information that any lands have been reclaimed, nor have we been able to ascertain that, in this respect, the purpose of Congress in making the grant has in any manner been accomplished. I, therefore, respectfully submit that this subject should arrest the profound attention of the Secretary of the Interior, and of Congress, especially so as there are still selections pending in this office for considerably more than 6,000,000 additional acres from that State that are unadjusted.

For the information of the honorable Secretary I append the following table, showing the number of acres already patented to the several States, and the number of acres selected awaiting examination, viz:.

Area of the swamp land selections made by the several States up to May 3, 1890.

States.	Area.	States.	Area.
	Acres.		*Acres.*
Alabama	531,355.60	Michigan	7,293,159.28
Arkansas	8,655,210.10	Minnesota	4,389,252.94
California	1,883,555.90	Mississippi	3,602,963.30
Florida	22,222,439.60	Missouri	4,843,583.34
Illinois	3,981,784.10	Ohio	116,766.28
Indiana	1,377,727.70	Oregon	410,671.86
Iowa	4,567,959.33	Wisconsin	4,567,123.87
Louisiana, act March 2, 1849	11,214,996.32		
Louisiana, act September 28, 1850	554,459.51	Total	80,213,009.03

Area of the swamp lands patented to the several States up to May 3, 1890.

States.	Area.	States.	Area.
	Acres.		*Acres.*
Alabama	411,189.26	Michigan	5,667,304.64
Arkansas	7,647,709.36	Minnesota	2,890,547.25
California	1,469,340.25	Mississippi	3,259,153.20
Florida	16,114,669.00	Missouri	3,415,452.85
Illinois	1,455,641.45	Ohio	25,640.71
Indiana	1,257,863.05	Oregon	140,623.87
Iowa	1,183,315.20	Wisconsin	3,332,900.51
Louisiana, act March 2, 1849	8,708,588.53		
Louisiana, act September 28, 1850	225,172.32	Total	57,205,111.45

It will be seen that of the immense acreage of selections made by the sixteen swamp-land States, more than one-fourth comes from the State of Florida alone. The average of selections per State is a little over 5,000,000 acres, Florida claiming over *four* times that amount.

In view of all the facts herein presented, I respectfully urge upon the honorable Secretary that no more selections be approved to the State of Florida, until thorough and reliable examinations are made by competent and trustworthy agents, who go out under specific instructions, provided with competent surveyors, with orders to trace and report upon each section embraced in the lists of selections, according to the field notes of the original surveys.

The limits of this communication, already too much extended, will not permit me to enter into a discussion of the important and somewhat difficult question as to the right and duty of the Government to institute proceedings for setting aside patents granted to the State, upon the ground that they were procured through fraud and mistake. Upon this subject I am not now prepared to express an opinion. I therefore respectfully suggest that it be referred to the honorable Attorney-General for his consideration.

Very respectfully,

W. M. STONE,
Assistant Commissioner.

Hon. JOHN W. NOBLE,
Secretary of the Interior.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1765.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 19, 1890.—Ordered to be printed.

Mr. DOLPH, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany resolution by Mr. Call relating to the improper and unlawful selections under alleged railroad and swamp and overflowed land grants in the State of Florida.]

The Committee on Public Lands, to whom was referred the Senate resolution, introduced December 4, 1889, proposing to direct said committee or a subcommittee to investigate the facts concerning alleged illegal and fraudulent conveyances of public lands in the State of Florida, have had the same under consideration and respectfully report.

The following is a copy of said resolution:

[Senate Mis. Doc. No. 12, Fifty-first Congress, first session.]

Whereas the Secretary of the Interior in a communication to the Senate in 1885 stated that, at an estimated number, there were between two and three thousand contests and homestead cases in the State of Florida, alleging unlawful selections of the land covered by their homesteads under alleged railroad and swamp-land grants; and

Whereas the Secretary of the Interior and the Commissioner of the General Land Office, in several communications to Congress in the years 1885-'86-'87-'88, called the attention of Congress to the fact that "numerous letters were on file in the Interior Department from citizens of Florida complaining of unlawful selections of their homes, under alleged railroad and swamp-land grants, and recommended legislation for the protection of these people in their rights;" and

Whereas many petitions have been presented to the Senate to the same effect, praying for protection to actual settlers: Therefore, be it

Resolved, That the Committee on Public Lands, or a subcommittee of their number, be, and is hereby, directed to investigate all the facts bearing upon the general allegations referred to, and that for the purpose of such an investigation said committee is authorized to employ a stenographer, and shall have power to administer oaths, send for persons and papers, to sit in Washington or such other place as may necessary, the expenses of the same to be paid from the contingent fund of the Senate; and said committee shall report, by bill or otherwise as the circumstances shall seem to require, such plan for remedy of the evils, if any shown, as they may deem necessary.

In answer to a letter from the chairman of the committee to the honorable Secretary of the Interior requesting information, the Acting Secretary, with a letter dated May 8, 1890, inclosed a letter from the Commissioner of the General Land Office (both of which are hereto appended), from which it appears that in the opinion of the Commissioner no legislation would be of benefit to applicants whose entries are in conflict with land claimed by the railroad company except the passage of bills looking to the forfeiture of the land grant—bills since disposed of by the passage of the general land-grant forfeiture bill—and that no "further legislation *could* benefit the swamp-land contestants, or hasten the *adjustment of the cases* of conflict in the General Land Office."

A similar resolution passed the Senate during the Fiftieth Congress, and the committee investigated the facts and reported that no legislation was practical which would be beneficial to such contestants. A copy of the report, omitting the testimony accompanying it, is hereto appended.

Your committee therefore recommend that the resolution be indefinitely postponed.

DEPARTMENT OF THE INTERIOR,
Washington, May 8, 1890.

SIR: I am in receipt of your communication of the 14th ultimo, inclosing a resolution offered by Senator Call, relative to an alleged unlawful selection of land in the State of Florida, and asking of this Department information as to the difference, if any, which exists between the contests mentioned in said resolution and those arising in other States, and whether any, and if so, what, legislation is necessary to hasten their settlement.

In reply thereto, I transmit herewith a report from the Commissioner of the General Land Office upon said subject, which contains all the information in the possession of this Department relative to the matters inquired about.

Very respectfully,

GEO. CHANDLER,
Acting Secretary.

Hon. P. B. PLUMB,
Chairman Committee on Public Lands, United States Senate.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., April 24, 1890.

SIR: I am in receipt, by reference from the Department, on April 16, 1890 (for report in duplicate), of a communication from the chairman of the Senate Committee on Public Lands, inclosing a resolution offered by Senator Call, relative to the alleged unlawful selection of land in the State of Florida.

The first paragraph of said resolution reads as follows: "Whereas the Secretary of the Interior in a communication to the Senate, in 1885, stated that, at an estimated number, there were between two and three thousand contests and homestead cases in the State of Florida, alleging unlawful selections of the land covered by their homesteads under alleged railroad and swamp-land grants."

The honorable chairman of the Committee on Public Lands, in his letter dated April 14, 1890, states that he would like to have information as to the difference, if any, which exists between the contests mentioned in the inclosed resolution, and those arising in other States, and whether any, and if so, what, legislation is needed to hasten their settlement.

Pursuant to said request I have the honor to submit the following report:

(1) As regards the railroad contests, they are conducted in the same manner as in other States.

There are pending in this office about five hundred applications, on appeal from the rejection of the same, for conflict with the grant under the act of May 17, 1856 (11 Stat., 15), to aid in the construction of a railroad from Amelia Island (Fernandina), on the Atlantic, to the waters of Tampa Bay, with a branch to Cedar Keys, on the Gulf of Mexico.

The present owner of this grant is the Florida Railway and Navigation Company.

The road was completed from Fernandina to Waldo within the time prescribed, and from Waldo to Plant City after that time. It remains uncompleted from Plant City to Tampa.

The Cedar Keys branch, from Waldo to Cedar Keys, was constructed in time.

These applications are mostly opposite the road constructed out of time, and a few may be opposite the unconstructed portion.

Should action now be taken upon their applications it would be adverse to the applicants, and for this reason action has been suspended, awaiting the result of the proposed legislation looking to the forfeiture of the grant.

I can not see how any legislation can benefit applicants whose entries are in conflict with land claimed by the railroad, except by disposing of the bills pending, looking to the forfeiture of the grant to the railroad company.

(2) Relative to the swamp-land contests there is no difference in the manner of conducting the class of contests mentioned in said resolution from those arising in other States over which the swamp-land grant has been extended.

On December 13, 1886, the rules previously in force, relative to the admission of entries and filings on land selected as swamp, which had not been approved or certified by the Secretary of the Interior, were modified so as to read as follows:

"(1) When any settler upon such lands, or applicant to enter the same under the public land laws of the United States, shall apply to make a filing or entry under said laws, accompanied by a statement under oath, corroborated by two witnesses, that the land in its natural state is not swamp and overflowed, and rendered thereby unfit for cultivation, the register and receiver will allow such filing or entry 'subject to the swamp-land claim.'

"(2) Upon the admission of any such filing of entry the register will at once notify the governor of the State thereof and allow him sixty days within which to object to the perfection of the entry and to apply for a hearing in behalf of the State to prove the swampy character of the land.

"(3) When a hearing is ordered between the State and claimant, under the public land laws, the burden of proof will be upon the State to establish the character of the land.

"(4) When no protest or application for a hearing is presented on the part of the State, as herein provided, the State will be deemed concluded from thereafter asserting a claim to the land under the swamp-land grant."

The foregoing rules are applicable to the State of Florida, and it will be observed that parties who desire to enter land that has been selected by the State as swamp land may do so, and the burden of proof to establish the character of the land is placed on the State; consequently the applicant is put to no expense in the matter of clearing the records of the swamp-land claim, unless the State objects to the perfection of such entries and applies for hearings, and even then the applicant is not required to be present, as the State must establish the swampy character of the land without expense to the applicant.

Nearly all the swamp-land contests initiated under the old methods, which place the burden of proof on the contestant, have been adjusted.

I am unable to see how further legislation could benefit the swamp-land contestants or hasten the adjustment of the cases pending in the General Land Office.

Very respectfully,

LEWIS A. GROFF,
Commissioner.

The SECRETARY OF THE INTERIOR.

[Senate Report No. 2288, Fiftieth Congress, first session.]

The Committee on Public Lands, to whom was referred the Senate resolution, passed April 18, 1888, directing said committee or a subcommittee of their number to investigate the facts concerning alleged illegal and fraudulent conveyances of public lands in the State of Florida, have had the same under consideration, and respectfully report:

The following is a copy of said resolution:

IN THE SENATE OF THE UNITED STATES,
April 18, 1888.

Whereas it has been alleged by the Senator from Florida that he is satisfied, from petitions presented by reputable citizens of Florida, that illegal and fraudulent conveyances of public lands have been made in said State, in derogation of the rights of the United States and of settlers upon said lands, and that a remedy for such evils can be provided by law: Therefore, be it

Resolved, That the Committee on Public Lands, or a subcommittee of their number, be, and is hereby, directed to investigate all the facts bearing upon the general allegations referred to, and that for the purpose of such an investigation said committee is authorized to employ a stenographer, and shall have power to administer oaths, send for persons and papers, to sit in Washington or such other place as may be necessary, the expenses of the same to be paid from the contingent fund of the Senate; and said committee shall report, by bill or otherwise as the circumstances shall seem to require, such plan for remedy of the evils, if any shown, as they may deem necessary.

Attest:

ANSON G. MCCOOK,
Secretary.

In order to ascertain the class of lands concerning which an investigation was desired by the author of the resolution, the senior Senator from Florida (Senator Call) he was invited to appear before the committee and make a statement. From his statement it appeared that an investigation was only desired in regard to swamp and overflowed lands granted to the State by the act of September 28, 1850.

The committee thereupon proceeded to take the testimony of certain witnesses, and have received a statement from the trustees of the internal improvement fund of the State of Florida, and from Mr. Hamilton Disston, on behalf of the Florida Land and Improvement Company, all of which are appended to this report.

By the act of September 28, 1850, above referred to, there was granted to the State of Florida the whole of the swamp and overflowed lands within her borders made unfit thereby for cultivation, which remained unsold at the date of the passage of the act, to enable said State to construct the necessary levees and drains for their reclamation.

By the second section it was made the duty of the Secretary of the Interior, as soon as practicable after the passage of the act, to make accurate lists and plats of lands described in the grant, and to transmit the same to the governor of the State, and at the request of the governor to cause a patent to be issued to the State therefor. By the third section it was provided that, in making out lists and plats of such land, all legal subdivisions the greater part of which was wet and unfit for cultivation should be included in said lists and plats, but when a greater part of a subdivision was not of that character the whole of it should be excluded therefrom.

A circular of instruction as to the manner of proceeding under said act was issued by the Secretary of the Interior November 21, 1850, to the surveyor generals of the several swamp-land States in which that office had not been discontinued, and to the registers and receivers in the other States to which the grant applied. Copies of this circular were sent to the governors of all the States in interest, with the request that the State authorities would elect which of the two methods for the selection of the swamp lands therein proposed they would adopt. These methods were:

(1) The field notes of the Government survey to be taken as the basis for selection, and all lands shown by them to be swamp or overflowed within the meaning of the act to be placed in the lists to be reported to the General Land Office.

(2) The States to select the lands by their own agents and report the same to the surveyor-general with proof as to the character of the lands.

The State of Florida elected to select the swamp lands granted to her under said act by her own agents. The total number of acres of swamp lands and overflowed lands selected as inuring to the State under the swamp land grant of September 28, 1850, reported to the Commissioner of the General Land Office by the United States surveyor-general of Florida, to June 1, 1888, was 20,259,323.59 acres; amount so selected and reported prior to March 3, 1857, was 11,630,271.51; amount reported since March 3, 1857, 8,629,052.08.

By the act of Congress approved March 3, 1857 (11 Stat., 251), selections of swamp and overflowed lands under the act of 1850 theretofore made and reported to the General Land Office so far as the lands remain vacant and unappropriated and not interfered with by an actual settlement under any existing law of the United States, were confirmed to the States and the approval and patenting of the same to the several States was directed and required. By this act 11,630,271.51 acres of swamp land selected and reported to the Commissioner of the General Land Office prior to March 3, 1857, were confirmed to the State of Florida, whether in fact swamp lands or not. Of the 8,629,052.08 acres reported since March 3, 1857, there have been approved by the Secretary of the Interior 5,131,944.32 acres. Of the lands so approved there have been patented to the State 4,953,333.50; and there are remaining unpatented of such selections 3,675,718.58 acres. But a comparatively small quantity of lands have been approved or patented to the State since September, 1879, and none have been approved or patented since June, 1885.

Among the witnesses examined before the committee was Mr. S. R. Edwards, chief of the swamp-land division in the General Land Office. From his statement it appears that in every case where the lands selected by the State of Florida as swamp and overflowed lands have not passed beyond the control of the General Land Office, either by confirmation of the selection, by the act of 1857, or by approval and patent of selection since that date, persons filing affidavits alleging that lands selected by the State are not swamp or overflowed lands within the meaning of the grant are allowed to contest the State's claim to the lands; and that in such contest for lands which have not been patented the burden of proof of the character of the land is upon the State. It appears also that the State makes no defense, but allows her claims to be rejected in such cases without protest or objection. Before selected lands are approved or patented to the State they are thoroughly and carefully examined in the field by an agent of the Government appointed by the Secretary of the Interior, and are not approved to the State unless his report shows them to be in fact swamp and overflowed lands.

Under this state of the law and of the practice in the Department it does not appear to the committee that any further legislation is required to secure to settlers upon the public lands in Florida the right to assert their claims and to secure title to lands which have been selected by the State as swamp lands, but have not been approved to it.

The next subject of inquiry is whether any legislation should be had to authorize the institution of legal proceedings to set aside patents which have been issued to the State for lands selected by the State under said act of 1850 as swamp and overflowed lands. As to the manner of selecting these lands we quote the following from the statement of the trustees of the internal improvement fund of Florida above referred to:

"As to the selection of swamp and overflowed lands, we have only to say that they are selected by agents under the employment of this board, but the proof of their character is made not to us but to the Secretary of the Interior of the United States, who considers the proof, causes the lands to be examined by his own agents, and determines whether or not the lands selected are swamp and overflowed."

A serious question arises as to the power of Congress in the premises if it shall be proposed to authorize proceedings to be instituted to set aside patents which have been issued to the State for lands selected in the manner above described. By the act of September 28, 1850, it was made the duty of the Secretary of the Interior to pass upon the question of the character of the lands selected under it, and to make out accurate lists and plats of the lands granted by the act when they had been selected, and to cause a patent to be issued to the State therefor.

Without passing upon the question as to whether the approval of the selections of lands under this act is not a final and binding adjudication between the State and the General Government as to the character of the lands selected by the State, the committee will proceed to consider the question of the policy of legislation authorizing the institution of legal proceedings for the purpose of canceling such patents.

It appears from the statement of the trustees of the internal improvement fund of Florida that there have been received by the State patents for 15,992,251 acres; that there have been disposed of by sales, pre-emptions, homesteads, etc., 6,158,610 acres; conveyed to railroads, 5,940,010 acres; conveyed to Florida Coast Line Canal and Transportation Company, 92,156 acres; conveyed to Atlantic and Gulf Coast Canal and Okechobee Land Company on drainage contract, 1,174,942 acres, and that of the patented lands the title to 2,626,532 acres remains in the trustees of the internal improvement fund of Florida.

It appears further that the lands so conveyed to corporations have been largely pledged for the moneys which have been expended in their works or sold to individuals, including not only speculators, but large numbers of settlers and immigrants, all of whom have purchased upon the faith of the patents of the United States issued after a determination of the question of the character of the land by the Secretary of the Interior, who was, by the act making the grant, invested with the power to finally determine the character of the land so far as the United States is concerned; that as to the lands the title of which remains in the trustees of the internal improvement fund, a large portion is involved in contracts with drainage and canal companies who have invested their money on the faith of the patents to the same, and that other portions of said land are held by said trustees to pay the liabilities of said fund.

It appears that the swamp lands granted to the State by the said act of September 20, 1850, were, by a statute of Florida of January 6, 1855, vested in the trustees of the internal improvement fund, and that the governor, controller, treasurer, attorney-general, and commissioner of lands and immigration are *ex officio* such trustees. The trusts to which the lands are devoted by the original act and all amendatory acts may be stated as follows:

(1) International improvements, by railroads and canals.

(2) Drainage, by work devoted immediately to that purpose.

(3) Encouragement of actual settlement and cultivation of said lands, by allowing premiums of not exceeding one section to any one settler.

A number of railroad companies in the State have special land grants from this fund varying in quantity but subject to the general trusts of the act creating such fund and its amendments; and every railroad, or canal, or company incorporated under the general corporation acts of the State becomes entitled to receive the alternate sections of State land within 6 miles of its line, and indemnity within 20 miles of the road or canal as the road or canal is completed in sections of 6 miles.

It further appears that under the statutes of the State and the rules of the board any person may acquire swamp lands still held by the trustees and not reserved by paying $1 per acre therefor; that any citizen of Florida who is the head of a family, or is twenty-one years of age, can acquire 80 acres of such land, at 25 cents per acre, by making affidavit that he desires it for his own settlement and cultivation; that any person who is an actual settler on such land can pre-empt and acquire the title

to such land, not exceeding 160 acres in a compact form in legal subdivisions, by applying for the same and paying $1 an acre therefor in three installments, one-third on entry, one-third in two years thereafter, and one-third in three years thereafter.

It appears, also, that in the grant of these lands to railroad companies, and in the sales of lands in large quantities, the rights of settlers have been protected. Upon this point the committee quote the following from the statement of the trustees of the improvement fund:

"The policy of the laws of Florida as to actual settlers on these lands has been liberal, and the administration of the trustees has been and is governed by an earnest and diligent solicitude for the interests of such settlers and to secure to them all the rights, privileges, and opportunities possible, and any intimations to the contrary, or that action is required of Congress or otherwise to secure the rights of actual settlers in lands of which these trustees have control, they repel as gratuitous and without any foundation of fact. Of course this board is not able to authorize persons to now enter upon or to convey to them lands which have been previously conveyed to some one else; but in all contracts, reservations, and conveyances the board has been careful and diligent in protecting the interests of all actual settlers whether occupying under color of any right or merely as squatters. Previous to the Disston sale, above mentioned, the most of these lands were unoccupied, but here and there persons had squatted on them, who lived on them without paying anything for them, and without making any effort to acquire title. This may have been in some cases on account of poverty, and in some cases because of ignorance of the method of proceeding to get title, but in some cases it was because of a desire to enjoy the use of land without paying anything for it in purchase or in taxes.

"When the sale was made to Disston in 1881 the trustees entered into an agreement with him that all persons settled on any of the lands bargained or conveyed to him should have the lands on which they were settled at the State prices, the maximum of which was $1 per acre, and that they should have until January 1, 1883, to pay for such lands. Notice of this was published by the trustees in the newspapers of the various counties where the lands were situated, and blanks or forms of application sent to all persons so situated who made application to purchase such lands, and deeds were executed to them free of any cost other than the schedule price as aforesaid. In fact the limitation to January 1, 1883, has never been enforced; but upon a showing of bona fide settlement prior to the sale to Mr. Disston he has always been willing, if the land remained subject to his control, to convey it to the settler and to receive other lands from the trustees instead thereof, and the trustees have always been willing and anxious to make such arrangements. If any cases of individual hardship have occurred to settlers they have not arisen from any lack of care or provision by the board for their protection. There have been contests alleging attempts fraudulently to take advantage of these provisions for the protection of actual settlers by land speculators and persons having no bona fide settlements on the lands; also contests as to who of several was the actual settler on a certain piece of land; and the board has from time to time sent out agents to investigate and report upon these matters free of cost to the alleged settlers, and in determining whether or not a person was an actual settler their decisions have been liberal to the settlers.

"The general rule as to all reservations for railroads made since 1881, since which time nearly all the reservations under which railroads have acquired lands have been made, has been and is that the reservation is made 'subject to the rights of actual settlers and subject to the further order of the board.' And the board has exercised their reserved power liberally and freely in favor of actual settlers in all meritorious cases brought to their attention, and these opportunities of relief are generally known in the localities where the lands are situated, and settlers frequently and freely avail themselves of them. There are no fees, costs, or technical requirements in these proceedings, nor is there anything strict or difficult in the proof of settlement required.

* * * * * * *

"Where reservations have been made for railroads or canals and by reason of delay in the work it has appeared to the board that the settlement of the lands was being impeded, the board has in several such reservations allowed actual settlers to go into such reservations and purchase homesteads at the schedule price of $1 per acre."

It seems more than probable that considerable tracts of land were confirmed to the State of Florida by the act of March 3, 1857, which were not swamp lands in fact, and that there have been since selected and approved and patented to the State lands which did not fairly come within the description of land granted to the State by the act of 1850. But it would be impossible at this late day to ascertain with any degree of precision what lands have been so erroneously patented to the State or the relative proportion of the same. It appears that large bodies of land are swamp or overflowed at certain seasons of the year, generally in the summer and fall and during wet years, so as to be periodically too wet for cultivation or habitation, which in dry seasons or in dry years are dry.

It also appears that lands which, at the date of the swamp land act, September 28, 1850, were undoubtedly swamp and overflowed within the meaning of the act, have since that date, by the construction of railroads, canals, and ditches, by the settlement, clearing, and cultivation of the land, and in some cases by trails made by stock, become comparatively dry and fit for cultivation.

The committee believe that in other States which received the benefit of the act of September 20, 1850, large quantities of land have been selected and patented to the State which were not swamp lands in fact, and if legislation is to be had authorizing legal proceedings for the purpose of setting aside patents issued for land in the State of Florida it should be extended to such States.

In view of the fact that by the terms of the grant of the swamp and overflowed lands to the States the Secretary of the Interior was empowered to pass upon and determine the question of the character of the lands; of the fact that most of the lands patented to the States have been sold and conveyed by them and are now held by persons who have purchased them upon the faith of the United States patents; in view of the impracticability of determining at this time with certainty the character of lands selected by the States as swamp and overflowed lands at the date of the grant, the committee believe that as a matter of sound public policy the United States should be bound by the action of the Secretary of the Interior, and that it would be unwise to throw a cloud over the title of these lands by any legislation authorizing proceedings to set aside and cancel the patents heretofore issued for them to the States.

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51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1766.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 19, 1890.—Ordered to be printed.

Mr. HIGGINS, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 3270.]

The Committee on Claims, to whom was referred the bill (S. 3270) for the relief of the administratrix of George W. Lawrence, have had the same under consideration and respectfully report:

George W. Lawrence, the decedent, on the 9th of September, 1862, entered into two agreements with the United States, through the Navy Department, for the construction of the hulls of two wooden double-enders, called the *Agawam* and *Pontoosuc*. The contract provided that the vessels should be launched within one hundred and twenty-six days, and then be delivered to the Government, who through other contractors would supply the machinery. Fifty days were allowed for the attachment of the machinery; whereupon George W. Lawrence was to do that work which followed and was necessary to secure the machinery in place. The fifty days for the attachment of the machinery expired in the case of the *Agawam* on June 10, 1863, and in the case of the *Pontoosuc* on July 9, 1863. Through no fault of Mr. Lawrence, or his agents, the machinery was not attached to the *Agawam* until December 9, 1863, and on the *Pontoosuc* until May 16, 1864. During this prolonged time the advance in the price of labor and material accompanied the rise in gold prices, and this delay imposed upon the contractor, through no fault of his, the loss resulting from purchase of material and the employment of labor at the enhanced prices. The contract price for each vessel was $75,000.

Mr. Lawrence completed his vessels and delivered them to the Government. That they were satisfactory is manifest from the fact that his bills were entertained and considered by the Selfridge board, composed of Commodore Thomas O. Selfridge, Chief Engineer Alexander Henderson (succeeded July 8 by Montgomery Fletcher), and Paymaster C. H. Eldredge, which convened at the Brooklyn navy-yard June 5, 1865, and continued in session for more than six months. This board convened under the following resolution of the Senate:

IN THE SENATE OF THE UNITED STATES,
March 9, 1865.

Resolved, That the Secretary of the Navy be requested to organize a board of not less than three competent persons, whose duty it shall be to inquire into and determine how much the vessels of war and steam machinery contracted for by the Department in the years 1862 and 1863 cost the contractors over and above the contract price, and the allowance for extra work, and report the same to the Senate at its next session, none but those who have given satisfaction to the Department to be considered.

They reported (*inter alia*). (See Senate Ex. Doc. No. 18, Thirty-ninth Congress, first session, p. 61–62), as follows:

The board, after a critical examination of the bills of cost presented by the several contractors for vessels and steam machinery contracted for in the years 1862 and 1863, who have appeared and made sworn statements, has determined the excess of cost in the several cases over and above the contract price and allowance for extra work to be as follows:

Double-ender *Agawam*, wooden hull, G. W. Lawrence $8,610.77
Double-ender *Pontoosuc*, wooden hull, G. W. Lawrence 8,610.77

All of which is respectfully submitted.

THOMAS O. SELFRIDGE,
Commodore and President of Board.
MONTGOMERY FLETCHER,
Chief Engineer.
CHAS. H. ELDREDGE,
Paymaster.

Hon. GIDEON WELLES,
Secretary of the Navy, Washington, D. C.

On January 31, 1866, this report was referred to the Committee on Naval Affairs of the Senate, who thereupon, March 22, 1866, reported a bill for the payment of the awards thus made. This bill, S. 220, first session, Thirty-ninth Congress, passed the Senate. In said report (No. 45, first session, Thirty-ninth Congress) the committee say:

From June till December last, the board organized by the Secretary of the Navy, under the Senate resolution, composed of eminent officers of the Navy, was engaged in hearing evidence and investigating the claims of these parties. That investigation seems to have been fairly, carefully, and thoroughly made. It was by officers of the Department, and the award, which the committee believe to be substantially right, should be adopted as the basis of relief to the parties, and therefore the committee report the accompanying bill.

Your committee recognize the merits of the claim, but recommend to the Senate the accompanying substitute, which gives to the claimant the opportunity to go before the Court of Claims and prove how much the vessels cost the decedent, but limits the right of recovery to the sum found by the Selfridge board.

Hereto is appended a copy of the contract for the *Agawam*. The contract for the *Pontoosuc*, entered into the same day, is identical with it in all its provisions.

AGAWAM, PADDLE-WHEEL GUN-BOAT, G. W. LAWRENCE.

Contract.

This contract, made and entered into at the city of New York, in the State of New York, the ninth day of September, 1862, between George W. Lawrence, of the city of Warren, in the State of Maine, as principal, and Ambrose Snow, of the city of New York, and State of New York, and Joseph S. Burgess, of the city of New York, and State of New York, both residing in the city of Brooklyn, and doing business in New York City, ——— ———, as sureties, of the first part, and John Lenthall, chief of the Bureau of Construction and Repair, acting in the name of the Secretary of the Navy, for and in behalf of the United States of America, of the second part: Witnesseth, that the said parties of the first part do hereby contract and agree with the said parties of the second part, that for the consideration hereinafter named they do hereby covenant and agree for themselves, executors, administrators, and assigns, to build, equip, and fit the hull, spars, spare spars, rigging, blocks, sails, spare sails, awnings, canvas work, boats, tanks, casks, and all the equipments and outfits connected therewith necessary for a paddle-wheel gun-boat, to be delivered afloat and completely supplied with equipments and outfits, except the steam machinery, anchors, cables, furniture, cooking utensils, instruments, stores, ordnance and ordnance stores, but in every other respect fit for sea service.

The said parties of the first part further agree that the said vessel, equipments, and outfits shall conform in all respects to the specifications, drawings, list of articles to be provided and hereunto attached, which constitute a part of this contract, and are to govern the parties hereby contracting as truly as if the same were incorporated in this instrument; nor is the omission therein of any detail or object necessary to carry into effect he intent of this agreement to be to the detriment of the United States.

The said parties of the first part further agree that all the material shall be of the very best quality and free from defects; that the equipments and outfits shall conform to those used in the United States Navy, so that they may be used in connection therewith, and each and all respectively bearing the tests made of similar articles in the naval service.

It is further agreed by the parties of the first part that the person or persons appointed by the Navy Department to inspect the work shall have the power of rejecting, in any stage of its progress, any materials or articles that they may consider defective, either in material or workmanship, and to whom every part and arrangement must be satisfactory; and they will provide the said inspectors a suitable and convenient office room, and afford them satisfactory facilities for superintending the work.

The said parties of the first part further agree and contract that the aforesaid vessel shall be launched on or before one hundred and twenty-six days from the date of this contract, and shall be promptly delivered at their expense at the premises of the parties who have agreed with the Navy Department to erect and place on board the steam machinery for the said vessel.

The said parties of the first part do further agree to do all the carpenter's work necessary in connection with the steam machinery, and to give a proper and sufficient notice of the time of launching to, and permit the contractors for the steam machinery to execute on board the vessel the work necessary to be done by them before launching.

It is further agreed by the said parties of the first part that the vessel, perfectly fitted with all the equipments and outfits of every kind, complete, which this contract covers. and is intended to cover, shall be delivered to the Navy Department ready for naval cruising at sea (excepting only the steam machinery, ordnance, anchors, cables, furniture, cooking utensils, instruments, and stores not provided for in this contract), on or before the period of fifty days from the date of the delivery of the vessel at the premises of the contractors for the machinery.

The parties of the first part further agree that the magazines, shell rooms, light boxes, shot-lockers, shot-racks, and all parts connected therewith, with the iron ring and other bolts, and all arrangements connected with the hull and appertaining to the armament, shall be in accordance with such instructions as may be given from the Ordnance Bureau of the Navy Department; that all the apartments, state-rooms, store and other rooms, and fittings of every kind, shall be conveniently arranged and fitted to the satisfaction of the inspector appointed by the Navy Department.

It is further agreed by the parties of the first part to hold the United States harmless against any demand for patent fees for any patented invention for any article or arrangement that may be used by them in the construction of this vessel, and before the final payment shall be made to furnish the Navy Department with a proper release from such patentee.

And the said parties of the first part do further engage and contract that no member of Congress, officer of the Navy, or any person holding any office or appointment under the Navy Department, shall be admitted to any share or part of this contract or agreement, or to any benefit to arise therefrom. And it is hereby expressly provided, and this contract is upon this express condition, that if any such member of Congress, officer of the Navy, or other person above named, shall be admitted to any share or part of this contract, or to any benefit to arise under it, or in case the parties of the first part shall in any respect fail to perform this contract on their part, the same may be, at the option of the United States, declared null and void without affecting their right to recover for default that may have occurred.

In the event of a failure or neglect on the part of the parties of the first part to fulfill the stipulations of this contract, or to have the vessel launched or delivered at the premises of the contractors for the machinery, or ready for sea, as above stipulated, it is hereby agreed and understood that they will yield and pay to the United States the sum of $50 per day for each day delayed; and that in addition to said forfeiture the Navy Department is authorized to take possession of and to direct purchases to be made of all the necessary materials, and cause the construction of the vessel to be completed and fully equipped and transported as heretofore described; and any excess of cost will be at the expense of the said parties of the first part, provided the delay has not been occasioned by an unavoidable accident or the action of the Navy Department.

And the said United States, by the parties of the second part, do hereby contract and engage with the said parties of the first part as follows:

That the total price to be paid for the hull, equipments, and outfits, completed under all the conditions of this contract, and according to the annexed specifications is to be $75,000, the payments to be made in six equal parts as the work progresses, with a reservation of 20 per cent. from each part.

The bills for these payments to be presented in triplicate, certified by the superintendent appointed by the Navy Department that the one-sixth part of the value of this contract, in labor and materials, has been furnished in due proportion to the time; which bills, when duly approved by the parties of the second part, shall be paid to the said parties of the first part, or to their order, by the Navy agent at——

It is further mutually understood and agreed that the sixth payment is not to be made until the vessel is coppered and delivered, as this contract provides, at the premises of the parties who have agreed to place the steam machinery on board; and that to entitle the said parties of the first part to the 20 per cent. reserved as above named, the hull, equipments, and outfits must be complete and satisfactory to the Navy Department; and the payment thereof, or as much as may be due, shall be received by the parties of the first part in full consideration of the complete fulfillment of this contract.

It is further agreed that in the event of the steam machinery not being erected and completed on board the vessel within the time above specified for the completion of the vessel, she being in all other respects fully completed, the final payment shall then be made, withholding only so much as may be necessary to execute the work remaining to be done.

It is further agreed that the Navy Department shall have a lien on the vessel, and on all the materials provided for the fulfillment of this contract, for the money advanced or paid by the United States on account thereof; and that the said parties of the first part agree that they will keep the vessel and materials insured to the amount which may be paid on account of this contract, until delivered at the premises of the parties who have agreed with the Navy Department for the erection of the steam machinery on board, the policies being made payable to the United States.

During the time the vessel is having the machinery erected and placed on board, the contractors therefor have agreed to furnish the parties of the first part, free of expense, with such facilities as they may have for her completion.

The vessel to be delivered at the Portland Works, Portland, Me.

GEORGE W. LAWRENCE.
AMBROSE SNOW.
JOSEPH S. BURGESS.

Signed, sealed, and delivered in presence of—
WM. D. JAIES.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1767.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 20, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8713.]

The Committee on Pensions, to whom was referred the bill (H. R. 8713) granting a pension to Rhoda Buck, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives hereto appended is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8713) granting a widow's pension to Rhoda Buck, submit the following report:

Rhoda Buck is the widow of Hassan A. Buck, sergeant, Company K, Seventh Michigan Cavalry. She made an application for pension in September, 1889, and it was rejected on the ground and by reason of her inability to show cause or date of her husband's death.

The record evidence on file with her application shows that he was wounded severely at the battle of Gettysburgh, and from which he never fully recovered. Being unfit for active duty he was transferred to the Invalid Corps, and in September, 1865, mustered out of service and returned to his home.

The wound received in battle was a very severe one, which unfitted him for labor. About April 1, 1866. he left home to visit a friend, and never has been seen by any of his friends since that date, although diligent search has been made for years. The supposition is that he became deranged. wandered off, and perished. His home was a most happy one previous to his enlistment. He was a man of good habits, and a very gallant soldier, and by his disappearance his wife and children were deprived of a husband's and father's care. Every effort was made to trace his disappearance, without success, for the past twenty-four years, and there can be no doubt that he lost his life while in a feeble or demented condition. The widow has maintained herself by hard labor since her husband enlisted. She is now destitute.

Your committee, believing this a meritorious claim, recommend the passage of the bill.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1768.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 20, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 573.]

The Committee on Pensions, to whom was referred the bill (S. 573) granting an increase of pension to Mark F. Carter, have examined the same and report.

In the immediately preceding Congress a bill was introduced granting an increase to this claimant from $30 to $50 a month. He was at that time receiving the highest rate for his disability, as it then existed, provided for by the general law, and the report of the committee was adverse.

It appears, from evidence now in the hands of the committee, that his disability is progressive, and that since the above report was made he has become almost helpless. The claimant was a member of Company E, Second Iowa Regiment.

John K. Price, of Fairfield, Iowa, testifies that he has known him twenty years; that his health during that time has been very poor; and that he has never been able to do a day's work; that at the present time he is unable to perform any manual labor; that it is not safe to leave him alone, and that it is necessary for some one to be with him all the time. Affiant knows these facts because he has been his near and intimate neighbor.

Dr. W. Fordyce, of Glasgow, Iowa, testifies that he has known him the last fifteen years, and has been his physician six years; that he is to all intents and purposes helpless; that he is dependent upon his pension.

A. G. Smith, postmaster at Lockridge, Iowa, testifies that he has known claimant for years; that he is very weak and practically helpless; that he needs an attendant always at night and in cold weather; that he is always confined to the house.

Dr. R. B. Stephenson, of Lockridge, testifies that claimant is suffering from heart trouble and nervous prostration; that he is subject to smothering and sinking spells at night, on account of which he needs an attendant. John Heron, of the same place, gives similar testimony, from all of which it is apparent that his disability is progressive; that he is unable to engage in any kind of employment; that he is nearly helpless, and that he will never be any better.

It is not doubted that his condition is due to his service.

Senator Wilson, of Iowa, knows the witnesses, and assures the Senator who makes this report, that they are reliable men.

The bill is reported favorably, with a recommendation that it do pass.

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51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1769.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 20, 1890.—Ordered to be printed.

Mr. PADDOCK, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11578.]

The Committee on Pensions, to whom was referred the bill (H. R. 11578) granting a pension to Rebecca A. Green, formerly widow of George W. Barker, late of Company F, Ninth Iowa Cavalry, have examined the same and report:

The facts in this case are correctly stated in the appended House report, which is adopted as the views of this committee, with the recommendation that the bill do pass.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11578) granting a pension to Rebecca A. Barker, submit the following report:

George W. Barker, enlisted November 30, 1863, and died in hospital at St. Louis, February 5, 1864. His widow, Rebecca A. Barker, was pensioned, certificate No. 150697, at $8 until January 19, 1870, when she married one Green, who represented to the widow that he was a man of means, having $'0,000 in bank, etc. This and all other representations as to wealth and character proved to be false in every particular, and Green was found without any means whatever, a characterless scoundrel, and a thief, and the widow swears she never lived with him as his wife. Green left her and they lived apart to the date of Green's death, some two years ago.

As the widow of George W. Barker, she was left without other means of support than her pension, and poverty and hard labor had so broken her health that she was induced to accept what she supposed was an advantageous offer of marriage. Mrs. Barker is now old, very poor, and in feeble health. From the evidence on file the case seems to be entirely meritorious, the remarriage being the only bar to her pension. Your committee, therefore, recommend the passage of the bill, amended, however, by striking out the name Barker after the name Rebecca A., in line 6, and inserting instead the name Green.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1770.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 20, 1890.—Ordered to be printed.

Mr. DANIEL, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany S. 2082.]

The Committee on Public Buildings and Grounds, to whom was referred Senate bill 2082, entitled "A bill for the erection of a public building at Staunton, Va.," respectfully report the same with the recommendation that it do pass.

The city of Staunton is in Augusta County, Va. There are located the asylum of the State for the deaf, dumb, and blind, and the Western Lunatic Asylum for the Insane.

It is an educational center and there are many hundred students at its female schools. In the internal-revenue office at Staunton there are employed two deputy collectors. There are sixteen distillers, eighteen cigar manufacturers, and three wholesale dealers who procure stamps and do business at that office. The amount of internal-revenue tax collected at that office is about $120,000 per annum.

The Chesapeake and Ohio Railroad and the Valley Railroad meet at Staunton, and it is the capital of a large agricultural, mineral, and mining section of the State.

The gross receipts of the post-office for the year ending December 31, 1889, were $16,362.

Staunton is a prosperous and growing city. The appropriation asked for a public building there of $75,000 is deemed reasonable, the present and prospective importance of the city considered, and will consume about half of one year's revenue there collected.

Exhibits 1, 2, 3, 4, and 5 are herewith filed for detailed information.

EXHIBIT 1.

TREASURY DEPARTMENT,
OFFICE OF THE SUPERVISING ARCHITECT,
Washington, D. C., February, 15, 1890.

HON. LELAND STANFORD,
Chairman Committee on Public Buildings and Grounds, United States Senate:

SIR: The letter from your committee dated January 28, 1890, requested an official report from this office in regard to Senate bill 2082, introduced January 16, 1890, by Hon. John S. Barbour, to provide for the acquisition of a site and the erection thereon

of a public building for the accommodation of the "post-office, internal-revenue office, and other Government uses" in Staunton, Va., at a cost not to exceed $75,000, and in reply I have the honor to submit the following:

Copy of a report dated January 22, 1890, addressed to this office from the honorable the Postmaster-General.

Copy of a report dated January 10, 1890, addressed to this office by the postmaster of Staunton, Va.

Copy of a report dated January 10, 1890, by the Commissioner of Internal Revenue.

Copy of a report dated January 9, 1890, addressed to this office by the collector of internal revenue at Staunton, Va.

From computations made in this office, based upon the information and data received, it is found that a suitable site can be procured, and a public building about 50 feet by 80 feet in dimensions, two stories high, with basement, of fire-proof construction, including heating apparatus, vaults, and approaches, and excluding elevator service, which is not deemed necessary, can be erected thereon for $100,000, or $25,000 in excess of the limit of cost of site and building proposed by said bill.

After duly considering the subject, I am of the opinion that such a building will afford proper accommodations for the present and prospective needs of the Government offices to be located therein, and that said bill should become a law after being modified so as to fix the limit of cost of site and building at $100,000 instead of $75,000, and to facilitate a speedy compliance with its provisions, should it become a law, the appropriation clause should be added to it.

Respectfully, yours,

JAS. H. WINDRIM,
Supervising Architect.

EXHIBIT 2.

UNITED STATES INTERNAL REVENUE,
DEPUTY COLLECTOR'S OFFICE, SIXTH DISTRICT, VIRGINIA,
Staunton, Va., January 9, 1890.

Hon. J. H. WINDRIM,
Supervising Architect, Washington, D. C.:

DEAR SIR: Replying to your letter of January 7, 1890, "S. B. D." "McL.," I have the honor to reply:

(1) There being no internal-revenue office here prior to 1883, data for collections for 1878 cannot be given. The estimated collections of revenue for the past twenty-four years from the products of grain and fruit distilleries, tobacco and cigars, and special taxes has been estimated to be at least $90,000 per annum from Augusta County, Staunton being the county seat.

(2) Collections internal revenue for 1888, $90,058.83.

(3) Number of persons employed in internal-revenue office, 2.

(4) Number of square feet used for stamp and division deputy, 800.

(5) Number of estimated square feet for present and future growth of business, 800.

(6) Rent now paid for internal-revenue office, $120.

(7) Information in relation to post-office is furnished by W. A. Burke, postmaster.

Other Government offices.—District attorney's office is located in this city; two persons employed—district attorney and clerk. Number of square feet now used for district attorney's office, 400; estimated square feet for district attorney's office with future growth, 400; rent now paid for district attorney's office, $200.

Population of city in 1878, 7,000. Population of city in 1889, 10,000, with a suburban population of 3,000 to 4,000. Prospective commercial growth of city.

Taking the improvement of the city for the past two years, there have been electric lights, fire-alarm telegraph, increase of water-works, $300,000 spent in buildings, a street railway in process of construction, shoe, furniture, and ice factories, bark-extract works established, employing in all about one hundred and fifty hands. A very large increase in the wholesale liquor, grocery and shoe trade, with a fine agricultural and mineral country to draw from, the prospective cities of Iron Gate, Buena Vista, Ingalls, and Basic City, and the Roseland Iron and Coal Company, all within 50 miles of Staunton, with her live and enterprising business men, justify the conclusion that Staunton's commercial prosperity for the next ten years will be unprecedented.

I have the honor to be, very respectfully,

JOHN A. NOON,
Deputy Collector Internal Revenue.

EXHIBIT 3.

UNITED STATES POST-OFFICE,
Staunton, Augusta County, Va., January 10, 1890.

WINDRIM,
sing Architect, Washington, D. C.:

R: In reply to your letter of January 7, the postal business at this office
ıdar year of 1878 was $9,488.71; for 1888 $15,062.95; an increase of $5,574.24.
1889) shows a large gain on 1888, it amounting to $16,480.85. This sum
ow the actual business of the office for this reason: We have in our city
ssessment life-insurance companies, who have a large list of members in
hern States. Their postage accounts combined, as we learn from them,
ver $4,000. The stamps necessary for this large business come to them in
from members who live in small places where they can't obtain money-
ınk-check, and remit stamps. If these were purchased of this office it
v our real business, and the receipts would amount to fully $20,000 per

m now occupied 1,900 feet, with a basement room same size for storage
ıel, etc. We have barely room enough for the business now, and with a
e as is shown in 1889, in two or at most, larger accommodations will have
led. The indications are that the increase of business will be large this
r the next ten years if business continues to increase as now it will be
ble what it is now.
paid is $400 per annum.
mation in regard to other Government offices, I refer you to Mr. J. A. Noon,
ector of internal revenue.
public building here will cost from $6,000 to $25,000, according to loca-
ite off Main street is taken, good lots can be had for from $7,000 to $10,000.
lation of the city proper in 1878, I estimate at about 6,500. I have no
nowing exactly what is now our population, but it is fully 10,000, with a
ban population, who send through this office, I suppose, fully 6,000 more.
nercial growth of our city is rapid, and in the next ten years will show a
ıse.
, respectfully,

W. A. BURKE,
Postmaster.

EXHIBIT 4.

OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., January 22, 1890.

VINDRIM, Esq.,
vising Architect, Treasury Department, Washington, D. C.:

ınswer to your request of the 7th instant, relative to the post-office at
Va., which was acknowledged under date of the 8th instant, I furnish the
nformation, namely:

Status of post-office.

Items.	1878.	1888.
.....	$1,400	$2,200
.....	600	400
it.....	140	159
;master.....	2,000	2,400
s.....	8,789	14,497

ber of employes:

.....	4
.....	4
al	8

to the number of square feet floor area needed to provide for the present
ctive postal business, I beg to state that you should correspond with the

respectfully,

JNO. WANAMAKER,
Postmaster-General.

EXHIBIT 5

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, D. C., January 10, 1890.

Respectfully returned:

Staunton, Va., is and has been an important point, being headquarters of a stamp and division deputy. Collections about $120,000 per annum, and, under existing laws, not liable to decrease.

At least two rooms, about 20 by 20 feet each, with a vault, should be set apart for internal revenue.

No rent now paid by this bureau at Staunton.

JOHN W. MASON, *Commissioner.*
B. H. C.

O

51st Congress, 1st Session. | SENATE. | Report No. 1771.

IN THE SENATE OF THE UNITED STATES.

September 20, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2420.]

The Committee on Pensions, to whom was referred the bill (H. R. 2420) granting a pension to Julia W. Freeman, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2420) granting a nurse's pension to Julia W. Freeman, submit the following report:

In September, 1862, Julia W. Freeman, learning that her brother, a Union soldier, was dangerously wounded at Chantilly, left her home in Michigan and went to Alexandria, Va., to nurse him. She there became interested in the condition of the wounded Union soldiers, and from that time until July, 1865, devoted herself to their aid in hospital and in the field. Her labor was of the most efficient character. She was in the hospital, in camp, with the ambulances, wherever in fact a soldier needed nursing, food, clothing, or hospital attendance.

The wounded of Gettysburgh and of the Wilderness, the sick and dying in field hospitals at Stevensburgh and Brandy Station, were indebted to her for many comforts procured by her for them, and for assiduous care. During all the period mentioned she served in nearly every hospital connected with the Army of the Potomac. On the 6th day of July, 1864, in the midst of her labors, she was prostrated by typhoid fever. She was then at City Point, living in a tent and taking care of the sick and wounded. On the 2d of August she was removed to Washington. The fatigue of the journey brought on a relapse, and she was very ill for five weeks, and then went to Michigan to recruit her health. While there she collected money, provisions, and comforts for the soldiers, which she forwarded to Washington. After a few weeks at home recuperating, she returned to Washington and resumed her work for the sick and wounded, which ended in July, 1865.

This is only a partial sketch of this woman's services to her country. She performed these services without one cent of compensation.

She has never been healthy since she had typhoid fever, the result of exposure to the elements, of overwork, and of the fetid air of hospitals.

She was a brave woman, a patriot in the highest sense of the term.

In accordance with their custom in cases where nurses are deserving and served without pay, the committee recommend the passage of the bill; amended, however, by striking out the words "twenty-five" in line 6 and inserting the word "twelve."

O

51st Congress, 1st Session. | SENATE. | Report No. 1772.

IN THE SENATE OF THE UNITED STATES.

September 20, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6148.]

The Committee on Pensions, to whom was referred the bill granting a pension to Mary J. Sanders, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6148) granting a pension to Mary J. Sanders, submit the following report:

That said committee have considered this case and find that the Committee on Invalid Pensions of the Forty-seventh Congress made a favorable report in this case to that Congress, which report this committee adopt as their report, and which report is in the words and figures following:

"From the papers before the committee it appears that Mary J. Sanders is the widow of Thomas A. Sanders, who was employed as a scout in the military service of the United States during the late war, and was captured and killed by the Confederates in McNairy County, State of Tennessee, about July 29, 1864. Her claim has been rejected by the Pension Office on the ground that her husband was not an enlisted man, neither was he of the class of persons provided for by the third paragraph of section 4693 of the Revised Statutes.

"Among the papers in support of her claim is the affidavit of G. M. Dodge, late brigadier-general, United States Army, and commanding the post of Corinth, Miss. The affiant states that the name of T. A. Sanders is familiar to him, and that it is his impression that said Sanders was with the affiant as a scout, and he was killed or died while he was in said service. The fact that affiant had a large number of men engaged in similar service makes it impossible for him to make a definite statement at this late day.

"Fielding Hurst, late colonel of the Sixth Regiment of West Tennessee Cavalry, testifies that he well knew Thomas A. Sanders, late of McNairy County, Tenn., who entered the United States service as a scout the first night after the first transports of United States troops landed at Crump's Landing, Tenn.; had possession of Sanders's appointment until after the Shiloh fight and during the siege of Corinth. Some time subsequently affiant was asked by General Dodge whether said Sanders was a true and reliable Unionist, to which affiant responded affirmatively. General Dodge then informed the affiant that Sanders was employed by him as a scout, and that he (Sanders) on several occasions had ventured too far for his own good. When first employed Sanders acted under the directions of General Lew. Wallace. Affiant was near Memphis about the time Sanders was killed, and knows nothing personally as to the circumstances under which he came to his death. The fact that said Sanders was employed as a scout is also shown by the affidavits of Calvin Shell and J. B. Mills, of McNairy County, Tenn.

"Angelina Small and Mary Sanders testify that said Thomas A. Sanders was taken prisoner by a captain of General Forrest's command, while at his father's house, July 29, 1864, and that about four days thereafter he was killed by said forces.

"William J. Russell testifies that he was a private in Captain Russell's company of Confederate troops, and while on a scout near Tuscumbia, Tenn., about July, 1863, said Thomas A. Sanders was taken prisoner and charged with being a Union spy. The morning after the capture Sanders was sent under guard to their headquarters, after which affiant saw no more of said Sanders; that Sanders was employed as a scout with the Union Army is known to affiant from information received direct from him (Sanders) some twelve months previous to his capture.

"W. F. Moore, also of McNairy County, Tenn., testifies that he was acquainted with Sanders in his life-time, and saw him after he was shot and assisted in his burial. He was shot within one-half mile of affiant's residence, and he heard the report of the guns when he was killed. Affiant knew nothing of his connection with the Army, except by rumor, and that he was acting as a Federal spy, and his killing was because of that service.

"The claimant's marriage to Thomas A. Sanders on the 30th of October, 1846, is shown by the certificate of the proper court. She has six children, all of whom, however, are now over the age of sixteen years.

"The committee are fully satisfied by the evidence in the case that Thomas A. Sanders was employed and rendered efficient service in the Union Army as a scout, and that he came to his death at the hands of the Confederates by reason of such service. They therefore report favorably, and recommend the passage of the bill (H. R. 1989) granting a pension to Mary J. Sanders."

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1773.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 20, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10898.]

The Committee on Pensions, to whom was referred the bill granting an increase of pension to Daniel P. Roberts, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 10898) granting an increase of pension to Daniel P. Roberts, having given the same due consideration, beg leave to report as follows:

The claimant served as a second lieutenant in Company F, Third Missouri Volunteers, Mexican war, and he is now in receipt of the service pension at $8 per month provided by the act of Congress of January 29, 1887.

Prior to the allowance of his service pension the claimant made application for pension on account of a double rupture, which, he alleges, he incurred during his Mexican war service, but the claim was rejected January 10, 1887, by the Pension Bureau, on the ground that there is no record of the alleged rupture, and the testimony in the claim, after a special investigation, fails to show that the said disability was incurred in the service and line of duty.

The claimant is now about seventy-six years old, with no property or means of support aside from his small pension, and entirely incapacitated by old age, double rupture, rheumatism, and disease of eyes to earn a support by manual labor.

The facts are shown by the sworn statements of Dr. J. W. Weir, Dr. L. D. Burgess, James Bottom, and Samuel Morrison. Two petitions, signed by a large number of the citizens of Randolph County, Ill., are also filed in support of the bill, and show the claimant to be worthy and in need of the increase of pension prayed for.

The passage of the bill is recommended with the following amendment: Strike out the word "fifty," in line 7, and substitute in lieu thereof the word "twenty," so as to allow a pension at $20 per month.

O

51st Congress, 1st Session. | SENATE. | Report No. 1774.

IN THE SENATE OF THE UNITED STATES.

September 20, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11171.

The Committee on Pensions, to whom was referred the bill granting an increase of pension to Edwin Reeder, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 11171) granting an increase of pension to Edwin Reeder, have considered the same and report as follows:

The soldier served as a private in Captain Northcut's company, First Tennessee Volunteers, from June 2, 1846, to May 20, 1847, in the war with Mexico.

He is now a pensioner at $8 per month under the Mexican War service pension act of January 29, 1887.

In support of the bill Dr. Orange B. Ormsby, of Jackson County, Ill., testifies that the claimant is severely deaf in both ears, and is afflicted with a hydrocele and with general paresis of the nerves, the result of paralysis, and that he is entirely unable to do any kind of manual labor; also that the claimant's mental capacity has been permanently impaired by the stroke of paralysis.

Dr. Charles Bain corroborates the testimony of Dr. Ormsby, and adds that the claimant is a sober, honest, and upright man; that he (the claimant) lives in a little log hut by himself and has no means whatever aside from his small pension.

The claimant's physical condition and necessities are further shown by the testimony of Dr. W. W. Essick and M. G. Reynolds.

The soldier is now sixty-five years old. Your committee believe the case to be a very meritorious one, and the bill is therefore returned with the recommendation that it do pass, amended, however, as follows: By striking out the word "fifty," in line 6, and inserting in lieu thereof the word "twenty," so as to allow a pension of $20 per month.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1775.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 22, 1890.—Ordered to be printed.

Mr. MOODY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 3586.]

The Committee on Pensions, to whom was referred Senate bill 3586, granting a pension to Johanna Willoth, widow of Emil Willoth, late a first lieutenant in the Fifty-fourth Regiment New York Infantry, have had the same under consideration and submit the following report:

It appears from the evidence submitted to the committee that the deceased soldier, Emil Willoth, enlisted in Company K, Fifty-fourth Regiment New York Volunteers, and was enrolled on the 16th day of October, 1861, at Hudson City, N. Y., for three years; that in January, 1864, he re-enlisted as a veteran volunteer, and was thereafter promoted first lieutenant of Company G, of the same regiment, and was mustered out and honorably discharged with his company as first lieutenant on the 14th day of April, 1866, at Charleston, S. C. At the battle of Gettysburgh he received a gun-shot wound in the ankle. During all this time, from the day of his enlistment on the 16th of October, 1861, until he was discharged on the 14th of April, 1866, he seems to have been on actual duty with his command, except while detained in the hospital on account of the wound, and to have been exposed to all the hardships incident to such service. The deceased soldier is shown, by the evidence produced before your committee, to have suffered for many years from the effect of his wound and from rheumatism and neuralgia alleged to have been contracted in the military service and in the line of duty.

So far as it appears he made no application for a pension, but having become insane and confined in the insane asylum at Yankton, S. Dak., through a guardian duly appointed application was made to the Bureau of Pensions on the 13th day of March, 1889, for a pension. Pending this application, and before its completion, and in March or April, 1889, the soldier died in the insane asylum, leaving surviving his widow, the beneficiary in the pending bill, and one minor child. It is shown to the committee that the soldier died in absolute poverty, having no property, and that his widow, the beneficiary in this bill, is without means, and dependent upon the kindness of relatives and upon her own labor for the support of herself and of her minor child.

While the proof is not entirely conclusive, enough appears to satisfy the committee that this soldier's death finally resulted from the exposures and hardships of his service in the Union Army.

Under all the facts presented the committee are of the opinion the bill should pass, and do recommend its passage with an amendment inserting after the last word therein the words "at the rate of seventeen dollars per month," and striking out in line 7 the letter "K" and inserting the letter "G."

O

51st Congress, 1st Session. } SENATE. { Rep No. 1

IN THE SENATE OF THE UNITED STATES.

September 22, 1890.—Ordered to be printed.

Mr. Moody, from the Committee on Pensions, submitted the follo

REPORT:

[To accompany S. 3438.]

The Committee on Pensions, to whom was referred Senate bill granting a pension to John K. Hummer, late a private in Compan Ninth Indiana Volunteer Infantry, have had the same under consi tion and make the following report:

It appears from the proofs submitted that this beneficiary serv the three-months' service in Company G, Ninth Indiana Volunteer fantry, in the West Virginia campaign, and at the expiration of service was honorably discharged.

The proof submitted to the committee is conclusive that this so is and has been for a long time totally disabled from the performan any manual labor, and is totally incapacitated from earning a livelih and is poor. The doubt existing in the case is only as to whethe diseases under which he is suffering, to wit, lumbago, chronic rhe tism, and paralysis, were occasioned by such military service. Tha diseases exist and totally incapacitate him from the performance of is undoubted.

In view of the fact that this present application has been pe for a long time in the Bureau, and of the pendency of this bill b Congress, and that the same result through the Pension Bureau be reached only after great additional delay, and the needy circumst of the beneficiary, your committee recommend the passage of th with and amendment striking out the words "twenty-four" in and inserting in lieu thereof the word "twelve," so as to grant pension at the rate of $12 per month, the highest rate allowed the recent pension act.

O

51ST CONGRESS, 1st Session. } SENATE. } REPORT No. 1777.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 22, 1890.—Ordered to be printed.

Mr. MOODY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 1677.]

The Committee on Pensions, to whom was referred Senate bill 1677, granting a pension to John Speech, late a private in Company B, One hundred and twenty-first United States Colored Infantry, have had the same under consideration and submit the following report:

It appears the beneficiary enlisted as a private in Company B, One hundred and twenty-first United States Colored Infantry, on the 10th day of November, 1864, and was mustered out and honorably discharged on the 18th of November, 1865. On the 3d of April, 1876, he filed his declaration for a pension, alleging that at Mount Sterling, Ky., while drilling, a man behind him fired over his shoulder, and a fragment of the cap struck him in the left eye, destroying sight of same, and the sight of right eye was affected by sympathy, which has finally resulted in total blindness. His claim was rejected in the Pension Bureau July, 1880, upon the ground that it did not appear from the proofs that the alleged injury to his eye, resulting in such total blindness, was due to his military service.

In view of the fact that this case has been long pending and that the claimant is in great need and is entitled to a pension under the recent enactment, the committee recommend the passage of the bill in order to avoid the delay which would be necessary if he renewed his application to the Bureau under that act.

There is no doubt but that this claimant is wholly disabled from the performance of manual labor and is unable to earn a subsistence.

The committee recommend an amendment to the bill at the end thereof by inserting the words "at the rate of twelve dollars per month."

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1778.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 22, 1890.—Ordered to be printed.

Mr. MOODY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 2761.]

The Committee on Pensions, to whom was referred Senate bill 2761, granting a pension to Mrs. Sarah A. Aspold, widow of Edward Aspold, late a first assistant engineer in the United States Revenue-Marine Service, have had the same under consideration and submit the following report:

After further consideration of this case, and in view of the precedents which have been set by the action of Congress in other like cases, which, however, were not called to the attention of the committee at the time of the former adverse report, the Committee on Pensions have arrived at the conclusion that it is but just and proper that a pension be granted the beneficiary under the circumstances.

The only ground upon which a pension could be denied her is, that there is no general law now existing which extends to the widows of deceased officers in the Revenue-Marine Service, notwithstanding the fact that, in the judgment of your committee, as much reason exists for granting pensions in this service as in any other branch of the military or naval service of the United States.

It appears from the evidence produced before your committee that the deceased husband of the beneficiary, Edward Aspold, was appointed an acting third assistant engineer in the United States Navy December 8, 1862; on October 18, 1864, was appointed acting second assistant engineer therein, and served as such until October 5, 1865, when he was honorably discharged from such service, having been appointed first assistant engineer in the Revenue-Cutter Service September 2, 1865; that he continued in such Revenue-Cutter Service until the 22d of June, 1876, when he died, while in command of the revenue steam-launch *Discoverer*. The immediate cause of his death was hemorrhage of the lungs, and the proof is entirely satisfactory to the committee that this was the result of exposure in the service of the Government in the various grades of such service through which he passed.

Therefore the committee recommend the passage of the bill (S. 2761) with an amendment striking out in lines 9 and 10 of the bill the words "from the date of the death of her deceased husband, the said Edward Aspold."

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1779.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 22, 1890.—Ordered to be printed.

Mr. MOODY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 3258.]

The Committee on Pensions, to whom was referred Senate bill 3258, granting a pension to Adaline L. Miller, late an army nurse, have had the same under consideration and make the following report:

It seems, from the proofs submitted, that the beneficiary was an army nurse during the war of the rebellion, and served some four years as such in the hospitals at Cairo, Bird's Point, Paducah, and on hospital boat *Nashville;* also at Vicksburg after the surrender of that place.

There is no doubt in the opinion of your committee that, under the precedents set in such cases, this is a case in which the usual pension granted to army nurses should be given.

Therefore your committee recommend the passage of the bill with an amendment striking out the words "twenty-five" in line 5, and inserting the word "twelve," so as to grant her a pension at the rate of $12 per month.

O

51st Congress, 1st Session. | SENATE. | Report No. 1780.

IN THE SENATE OF THE UNITED STATES.

September 22, 1890.—Ordered to be printed.

Mr. Moody, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 4416.]

The Committee on Pensions, to whom was referred the petition of Thomas Richardson, late of Company B, Seventeenth Regiment Illinois Volunteers, praying for a pension, submit the following report and accompanying original bill:

It appears that the claimant enlisted in Company B, Seventeenth Regiment Illinois Volunteers, on the 25th of May, 1861, and served therein until October 1, 1861, when he was honorably discharged from such service.

It is alleged by the claimant that while he was on post guard duty with his regiment, at Alton, Ill., on the night of the 3d of July, 1861, he received a blow at the hands of some unknown person, made by a blunt instrument, on the right side of his head immediately above the right eye, that felled him to the ground unconscious, and by his companions he was found and taken to the surgeon's quarters where the wound was stitched and bandaged.

It is undisputed that this party has suffered total loss of the right eye and a resulting defective vision of the left eye.

After receiving this wound and after it had healed and his sight improved, he re-enlisted in company M, First Illinois Artillery, and after serving therein about twelve months his sight became so imperfect that he was transferred to the Seventh Regiment Veteran Reserve Corps, from which he was finally discharged at Washington, D. C., by reason of loss of sight.

It further appears that the soldier is very poor and is an inmate of the Soldiers' Home at Dayton, Ohio, and that he is unable by reason of his disabilities to perform manual labor or to earn his own support.

His claim was rejected in the Pension Bureau upon the ground that it did not sufficiently appear to the satisfaction of the Commissioner that the wound was received while in the discharge of military duty, and upon the further ground that it appeared from the evidence that the soldier had, prior to enlistment, defective sight.

It nowhere appears that there was any attempt on the part of this claimant to deceive the enlisting and enrolling officer as to the condition of his sight, and the committee are of the opinion that, such being the case, the Government should be estopped from alleging such defect to defeat the application for a pension.

It is clearly shown, in the judgment of your committee, that the wound was received while he was in line of duty, that it did result in the loss of sight of that eye and the impaired vision of the other.

Under the facts the committee recommend the passage of the bill.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1781.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 22, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8700.]

The Committee on Pensions, to whom was referred the bill (H. R. 8700) granting a pension to Mira Baldwin, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives hereto appended is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 8700) granting a pension to Mira Baldwin, have considered the same and report as follows:

The claimant's late husband, Pollard Baldwin, enlisted March 6, 1820, in Company B, Third United States Infantry, and was discharged April 3, 1821. He incurred a hernia while in said service, and was pensioned on account of the same up to the date of his death, May 15, 1858. The hernia became strangulated and caused the soldier's death, but his widow's application for a pension was rejected by the Pension Bureau on the ground that her husband's service having been rendered prior to March 4, 1861, and during a time of peace the law made no provision for her relief.

It appears from the claimant's statements that she is now eighty-one years old and without means of support.

Your committee recognize the fact that the action of the Pension Bureau in rejecting the claimant's application was in strict compliance with the law in such cases, but in view of the claimant's great age and destitution, and the fact that her husband died of disability contracted in the service and line of duty, it is believed that as an act of simple justice the relief prayed for should be granted.

The passage of the bill is recommended.

O

51st Congress, 1st Session. | SENATE. | Report No. 1782.

IN THE SENATE OF THE UNITED STATES.

September 22, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 2808.]

The Committee on Pensions, to whom was referred the bill (S. 2808) granting a pension to Amos Gilbert, have examined the same and report:

The ground upon which this pension is asked is that the petitioner, Amos Gilbert, served from March, 1838, to July, 1842, one year in the revenue service and the balance of the time as an enlisted seaman in the United States Navy, and was honorably discharged from the Navy July 13, 1842. By an accident while in the service he became totally deaf in his right ear, and while in such service at a Mediterranean station he contracted rheumatism, from which he has suffered ever since. He is now seventy-five years of age, very infirm and needy, almost a helpless cripple in his feet and hands, and for nearly thirty years has been unable to do any considerable work by which to earn a living. His service is established by papers on file with the committee.

His present condition is shown by medical testimony. Dr. Thompson, of New Haven, makes affidavit that he has known him for twenty-five years, and that during the entire period "he has been crippled and entirely incapacitated from earning his living by manual labor; that his hands and feet are distorted and drawn out of shape by rheumatism, and that it is a physical impossibility for him to do any work; that he also suffers from partial deafness, due to a rupture of the drum of the right ear; that he is a sober, honest man, and in every respect a good citizen."

The affidavit of the former collector of the port of New Haven carries back his disabilities to the year 1844, two years after his discharge; and the affidavits of other citizens of New Haven corroborate the statements of the petitioner.

He has made no application for a pension in the Pension Office, for the reason that he was advised that there was no law under which he could obtain one. At this late day it is improbable that he could produce medical or other evidence of the positive character required by the Pension Office to establish the fact of the incurrence of his disabilities in the service. But from the evidence filed with the committee the committee is satisfied that his statements in relation to the same are true, and that he is entitled to a pension which will keep him from absolute want during the remainder of his life.

The committee therefore recommends the filling of the blank in the bill by the insertion of the words "twenty-five," and the passage of the bill as thus amended.

O

51st Congress, 1st Session. | SENATE. | Report No. 1783.

IN THE SENATE OF THE UNITED STATES.

September 23, 1890.—Ordered to be printed.

Mr. Paddock, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 2047.]

The Committee on Pensions, to whom was referred the bill (S. 2047) granting a pension to Mrs. Esther J. Boone, respectfully report as follows:

Esther J. Boone was enrolled as hospital nurse on the 17th day of March, 1862, and assigned as matron at the Fifteenth Street Hospital, Keokuk, Iowa. She was in charge of Dr. H. T. Cleaver, surgeon U. S. Army, and was honorably discharged at Keokuk, Iowa, on the 31st day of July, 1865. While in such service in the fore part of the year 1865 she contracted deafness, which was caused by overwork and a severe cold. Her duties as hospital nurse in caring for the sick and wounded were laborious, extending often through the nights as well as the days. When she entered the service as aforesaid she was in good physical health, free from disease and deafness, and able to maintain herself as a teacher. She is now entirely disabled from performing labor of any kind to maintain herself, on account of her infirmities.

The fact of her enrollment, her honorable discharge, and useful service are corroborated by the statement of H. T. Cleaver, assistant surgeon U. S. Army, in charge of said hospital during all that time. Assistant Surgeon Cleaver says that "her duties were always performed with patriotic zeal and fidelity."

Surgeon M. K. Taylor, U. S. Army, certifies that Mrs. Boone was regularly appointed a matron or nurse in the general hospital at Keokuk, Iowa, under his charge.

J. D. Miles, late assistant surgeon Eleventh Iowa Infantry, also certifies to the fact that Mrs. Boone was engaged and performed services of hospital nurse from the 1st day of March, 1862, until the hospitals were closed in 1865, and that to his personal knowledge she was actually engaged all this time in caring for the sick and wounded.

Upon the statement of facts made by the claimant, which is fully confirmed in every particular by the history of the case as presented by the officers in charge of the hospital in which her services were rendered, and on account of her advanced age, infirmities, and inability to maintain herself, your committee have arrived at the conclusion that the case is an exceptionally meritorious one and urge the passage of the bill.

O

51st Congress, 1st Session. | SENATE. | Report No. 1784.

IN THE SENATE OF THE UNITED STATES.

September 23, 1890.—Ordered to be printed.

Mr. Paddock, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10985.]

The Committee on Pensions, to whom was referred the bill granting a pension to Isaac N. Jacobs, father of John W. Jacobs, of Company D, Thirteenth Iowa Infantry Volunteers, have examined the same and report that they have examined the case fully and find the facts as stated in the House report and adopt the views therein expressed as the views of the committee.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10985) granting a pension to Isaac N. Jacobs, submit the following report:

Isaac N. Jacobs is the father of John W. Jacobs, who was a soldier of Company D, Thirteenth Iowa Infantry, and who is now dead and died from disease contracted in the service. Isaac N. Jacobs is 72 years old, is in destitute circumstances, in feeble health, and prior to the death of his son was very largely dependent on him for support. John W. Jacobs married and left a widow but no children, and the widow is dead, having survived him but a short time. This applicant is not entitled to a pension under the general law, because of the marriage of his son, but your committee, in view of the fact that his wife survived him but a short time and that he left no children, and in view of the destitute condition of his father, recommend the passage of this bill.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1785.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 23, 1890.—Ordered to be printed.

Mr. PADDOCK, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9436.]

The Committee on Pensions, to whom was referred the bill granting a pension to E. T. Hanlon, late of Company E, Fifty-second Regiment Ohio Volunteer Infantry, have examined the same, and report:

The facts in this case are substantially stated in the subjoined House report, which is adopted as the report of this committee, with the recommendation that the bill do pass.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9436) granting an increase of pension to E. T. Hanlon, submit the following report:

Claimant enlisted August 11, 1862, Company E, Fifty-second Ohio Volunteers, and was honorably discharged May 16, 1865; was pensioned at $6 a month from May 17, 1865, and at $12 a month from August 24, 1881; at $24 a month from January 31, 1883, and at $30 from March 3, 1883, for chronic diarrhea, inflammation of stomach and and bowels, and for rheumatism. Filed application for increase May 8, 1888, which was rejected July 9, 1889, on the ground that no injustice had been done claimant by former rerating. Witnesses testify that claimant has been unable to transact any business since 1879, and that he is unable to perform manual labor. His officers testify to his worth as a soldier, and to his great sufferings in the Army by reason of sunstroke and other ailments.

Testimony of one physician and several neighbors, taken July, 1890, shows present condition of claimant to be one of total inability to perform any labor of any kind, and that he is confined to his room and bed a considerable portion of the time, and that he is a constant and great sufferer.

Your committee are of opinion that claim for an increased pension is a just one and recommend that the bill do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1786.

IN THE SENATE OF THE UNITED STATES.

September 23, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1117.]

The Committee on Pensions, to whom was referred the bill (H. R. 1117) granting a pension to Sarah E. Palmer, have examined the same and report:

The report on which this bill was passed by the House is concurred in, and is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1117) granting a pension to Sarah E. Palmer, submit the following report:

The Committee on Invalid Pensions in the Fiftieth Congress made the following report, which is hereby adopted by your committee:

"Claimant served as nurse for nearly three years in the Army hospitals, a portion of the time being employed in the 'low-diet kitchen,' at Alexandria, Va. Her services seem to have been exceptionally meritorious, and claimant is indorsed by C. S. Doughty Post, G. A. R., of Foxcroft, Me. She is aged and infirm.

"Dr. E. A. Thompson, of Dover, Me., certifies that he has known claimant for over thirty years, and that her disability (varicose veins) was undoubtedly occasioned by long standing in the hospitals. Her disabilities are so severe as to incapacitate her from earning a livelihood, as she has bravely done since the close of the war. Her term of service was one of exceptional length, and, according to a mass of testimony, of unusual value to the Government."

Your committee report the bill back favorably, and recommend its passage.

The bill is reported favorably, with a recommendation that it do pass.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1787.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 23, 1890.—Ordered to be printed.

Mr. TURPIE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9225.]

The Committee on Pensions, to whom was referred the bill granting a pension to Theodore L. Alexander, have examined the same, and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 9225) granting a pension to Theodore L. Alexander, have considered the same, and report as follows:

The claimant served from June 9, 1847, to October 31, 1847, as a teamster in the quartermaster's department U. S. Army in the war with Mexico.

His application for pension under the act of January 29, 1887, was rejected by the Pension Bureau on the ground that he was not an enlisted man during said war, but was a civilian employé of the quartermaster's department.

He now asks to be pensioned by special act of Congress and he declares in his petition that after being mustered into the service as a teamster at New Orleans, La., he shipped for Vera Cruz immediately and landed there about July 1, 1847. At this point he was placed on duty in Brigadier-General Pierce's brigade and went with it to Pueblo, where his team was taken by General Scott's army in its advance upon the City of Mexico; he (the claimant) was transferred to post duty under Quartermaster Webster at Pueblo. That after the capture of the City of Mexico Pueblo was besieged by the Mexican forces and the petitioner was placed under arms by his commanding officer and assisted in the defense of the post. They were engaged with the enemy and under fire for about twenty-eight days, when the siege was raised. The petitioner further declares that he does not know of any one now living who can corroborate his statements relative to above facts. The fact that he was left at Pueblo is, however, a matter of record. The claimant also swears that he is sixty-four years old, disabled by hernia, and partially dependent upon others for support.

The magistrate before whom the claimant's statement is sworn states that he has known the claimant for twenty years and that he is a man of good reputation for truth and veracity in the community in which he resides.

Your committee have at this session favorably reported a bill amending the act of January 29, 1887 (commonly known as the Mexican war service act), so as to include within its provisions those who actually participated in battle during said war whether regularly enlisted or not. Mr. Alexander would be a beneficiary under that bill should it receive favorable action at the hands of Congress, and therefore the private bill for his relief is reported back with the recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1788.

IN THE SENATE OF THE UNITED STATES.

September 23, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9736.]

The Committee on Pensions, to whom was referred the bill granting an increase of pension to Lovey Aldrich, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 9736) granting an increase of pension to Lovey Aldrich, have considered the same and report as follows:

The claimant's late husband, Caleb Aldrich, was a private in the New Hampshire and Rhode Island Line, and served in the Revolutionary war. The claimant is now receiving a pension at the rate of $12 per month under the general pension laws.

Edwin C. Aldrich, a son of the claimant, swears that she has no property whatever, and, with the exception of her pension, is entirely dependent upon him for support. His own means are very limited and he has a family to support. The papers on file at the Pension Bureau show that the claimant is ninety years of age.

Your committee are of the opinion that the case is a deserving one, and the passage of the bill is therefore recommended.

O

51st Congress, 1st Session. | SENATE. | Report No. 1789.

IN THE SENATE OF THE UNITED STATES.

September 23, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2428.]

The Committee on Pensions, to whom was referred the bill granting a pension to Emily Onderdonk, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2428) granting a pension to Emily Onderdonk, submit the following report:

Emily Onderdonk, whose maiden name was Emily Rowell, entered the service as an Army nurse July 6, 1863, being duly commissioned by Miss Dix and the Western Sanitary Commission. She was assigned to duty at Webster Hospital, Memphis, Tenn., and served there acceptably to December 7, 1863; she was then transferred to Gayoso Hospital, serving until November 1, 1864. Mrs. Onderdonk has her commission and order on file. From exposure and fatigue in caring for the sick and wounded Mrs. Onderdonk suffered from an attack of brain fever, and had hardly recovered when she was attacked with camp fever and pneumonia. From the sickness incurred in the service she has never recovered and is a constant sufferer from nervous debility and is unfitted to labor.

In view of these circumstances the passage of the bill is recommended.

51st Congress, 1st Session. | SENATE. | Report No. 1790.

IN THE SENATE OF THE UNITED STATES.

September 23, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 7149.]

The Committee on Pensions, to whom was referred the bill granting a pension to Hannah E. Winney, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 7149) granting a pension to Hannah E. Winney, have considered the same and report:

The claimant's late husband, James P. Winney, was a sergeant in the United States Marine Corps and served from December 10, 1845, to March 1, 1847. He died September 5, 1862, and his widow, Hannah E. Winney, filed an application for pension under the Mexican war service act of January 29, 1887; but the same was rejected April 2, 1889, by the Pension Bureau, on the ground that the soldier was not in Mexico, on the coast or frontier thereof or en route thereto, at any time during the Mexican war, his entire service during that war having been rendered at Philadelphia, Pa. The claimant is now about sixty-six years of age and has not remarried since the soldier's death.

Your committee have at this session favorably reported to the House a bill amending the act of January 29, 1887, so as to recognize the service of those soldiers who served sixty days or more during the war with Mexico, whether said service was rendered at the seat of war or not, and there are also numerous precedents for the allowance by special act of the relief prayed for in this bill.

The bill is, therefore, reported back to the House with the recommendation that it do pass. Amend the bill by spelling the surname of the claimant and soldier Winney; also by striking out the word "twelve," in line 4, and substituting in lieu thereof the word "eight."

O

51st Congress, 1st Session. | SENATE. | Report No. 1791.

IN THE SENATE OF THE UNITED STATES.

September 23, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8519.]

The Committee on Pensions, to whom was referred the bill granting a pension to John Frohlin, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8519) granting a pension to John Frohlin, submit the following report:

Claimant enlisted August 22, 1864, and was discharged June 25, 1865, on account of frozen feet, which injury constantly increased until it finally resulted in the loss of his right leg in May, 1866.

He applied for pension in 1868, alleging that while in line of duty near Alexandria, Va., on the 23d day of December, 1864, while standing guard, he froze both feet.

It was rejected after repeated examinations in the Pension Bureau on the ground that his limbs were diseased prior to enlistment.

Claimant is an uneducated German, and made some contradictory statements. The testimony on file, by a man who was with him at the time, shows conclusively that he was subjected to two rigid examinations by the Government surgeons and pronounced sound, and accepted as a sound man; and your committee think it is not creditable to a government to first accept a man as sound and afterwards reject him on technical grounds and, to say the least of it, doubtful and contradictory evidence, and recommend the passage of the bill.

51st Congress, 1st Session. | SENATE. | Report No. 1792.

IN THE SENATE OF THE UNITED STATES.

September 24, 1890.—Ordered to be printed.

Mr. Frye, from the Committee on Commerce, submitted the following

REPORT:

[To accompany S. 4403.]

The Committee on Commerce, to whom was referred the bill (S. 4403) to provide an American register for the steamer *Joseph Oteri, jr.*, of New Orleans, La., having duly considered the same and accompanying evidence, report as follows:

The steamer *Joseph Oteri, jr.*, formerly the *Anglian*, was built in 1878, at Glasgow, Scotland, by the firm of William King & Co., and has a gross tonnage of 471 tons. She was originally owned by Mr. A. B. Forwood, of London, and was by him sold on October 4, 1876, to Samuel Holmes, of the city of New York, for and on account of Joseph Oteri, of the city of New Orleans, for $17,000, for which the original bills of sale have been submitted.

While on a voyage from Utilla to New Orleans, after having been purchased by said Joseph Oteri, and while in his employ, this vessel went ashore off the coast of Louisiana, at Cubit's Gap. Anchors and cables were run out and efforts made to float her, but without success, and assistance was sent for. Tugs from New Orleans arrived, but were unable to move her. Finally her cargo was transferred to barges, and, by the aid of the tugs, the vessel was floated, brought to New Orleans, and docked for repairs.

These repairs amounted to $20,274.56, for which sum vouchers, with receipts verified by affidavit, have been furnished the committee.

The *Oteri* was appraised on September 16, 1890, by a board consisting of the president of the board of harbor-masters, the warden, and the ship-master of the port of New Orleans, who, under oath, fix the present value of the vessel at $20,000.

In view of the foregoing facts, showing that more than three-fourths of the cost or present value of this vessel has been expended in American ports for repairs, and as under the general statute her owner can not obtain the registry he desires on account of the wreck occurring outside of American waters, your committee report the bill favorably and recommend its passage.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1793.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 24, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3169.]

The Committee on Pensions, to whom was referred the bill granting a pension to Alexander F. Dutton, have examined the same and adopt the report of the Committee on Invalid Pensions of the House of Representatives, which is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3169) for the relief of Alexander F. Dutton, have had the same under consideration and find that the beneficiary of the bill was forced into the Confederate service by the conscript law of the Confederate States; that while serving as such conscript he was taken prisoner by the military forces of the United States and was confined at Alton, Ill., as a prisoner of war; that while confined at Alton he volunteered in the naval service of the United States and served as a seaman on board of the United States frigate *Susquehanna*, Capt. Alfred Taylor, commanding.

The committee find further that while serving as a seaman in the Navy of the United States, and in the line of his duty, the said Alexander F. Dutton contracted disease, which resulted in disability entitling him to pension under the pension laws, but his claim for pension has been rejected by the Pension Bureau because of claimant's former service in the Confederate army.

The committee find that in consequence of this decision of the Pension Bureau said Dutton can not receive or obtain the pension to which he is justly entitled in any way but by act of Congress, and the committee are clearly of the opinion that Dutton's compulsory service in the Confederate army should not be held to deprive him of the privileges and benefits resulting from his voluntary service in the Navy of the United States. The committee find that a bill precisely similar to the one under consideration was unanimously reported favorably by the Committee on Invalid Pensions, Fiftieth Congress. (See Report 3963, Fiftieth Congress, second session.) They therefore report the bill back with the recommendation that it do pass.

The committee therefore report the bill back favorably to the Senate and recommend that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1794.

IN THE SENATE OF THE UNITED STATES.

September 24, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10398.]

The Committee on Pensions, to whom was referred the bill granting an increase of pension to Mary A. Blaisdell, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10398) granting an increase of pension to Mary A. Blaisdell, submit the following report:

The claimant is the widow of General Wm. Blaisdell, who was killed in battle before Petersburg, June 23, 1864, while in command of the Second Brigade, Second Division, Second Corps.

General Blaisdell entered the service as private Company H, Fourth U. S. Infantry, January 19, 1841; was promoted corporal July 1, 1841; sergeant February 1, 1843; transferred to the general recruiting service July 19, 1848, and, at his own request, was honorably discharged by Special Orders No. 3, Headquarters of the Army, April 22, 1853.

During his service in the Mexican war was engaged with his regiment in the first two battles under General Taylor, and was under General Scott in every one of his battles, up to the capture of the City of Mexico. In the taking of that city he received two severe wounds.

He was mustered into the volunteer service June 13, 1861, as lieutenant-colonel, Eleventh Massachusetts Infantry, and commissioned colonel October 11, 1861.

He received the brevet of brigadier-general of volunteers, June 23, 1864, "for gallant and distinguished conduct." He served continuously with his regiment in the Army of the Potomac to July, 1863; on recruiting service in Boston, Mass., to November, 1863; commanding First Brigade, Second Division, Third Corps, to March 24, 1864; commanding his regiment to June 20, 1864, and was in command of the Second Brigade, Second Division, Second Corps, to June 23, 1864, upon which date he was killed in action before Petersburg, Va.

The evidence before the committee shows that he was recommended for promotion to the rank of brigadier-general by Major-Generals Hancock, Humphreys, and Sickles for gallant and meritorious services in the battles and operations of the 1st, 2d, and 3d of May, 1863; by General Prince, for the manner in which he commanded the First Brigade, Second Division, Third Corps, in the battle of the 27th of November, 1863. His widow, this applicant, is now poor and dependent.

The committee are of the opinion that the pension in this case be increased from $30, her present pension, to $50 per month, and that said bill be so amended, and when so amended, that said bill do pass.

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1795.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 24, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9245.]

The Committee on Pensions, to whom was referred the bill (H. R. 9245) granting a pension to Louis P. Noros, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives hereto appended is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 9245) granting a pension to Louis P. Noros, have considered the same and beg leave to submit the following report:

The records of the Bureau of Navigation, Navy Department, show that the claimant enlisted at New York May 17, 1879, as a seaman for the cruise of the United States Arctic steamer *Jeannette* and served on board of that vessel until she was lost, and subsequently in the search for Lieutenant-Commander De Long and party, and was finally discharged from the service on June 1, 1883, at Washington, D. C.

In his petition for relief the claimant declares that his health and bodily vigor have been impaired by the terrible hardships, exposure, and sufferings endured in the frozen regions of the north, and as time goes by the effects of that ordeal become more and more visible. He can now perform only the lightest kind of labor, and he finds himself, through no fault of his own, unable to earn a livelihood at the ordinary employments which, were his health not impaired, would be open to him.

The claimant further declares that when the *Jeannette* was abandoned in the ice he was a member of the boat's crew of Lieutenant De Long; that when, after a thousand miles' journey in the boat, the party landed at the mouth of the Lena River their provisions were exhausted and the men worn out with fatigue and exposure; that then Seaman Nindemann and himself were sent ahead for food and help; that after a journey of sixteen days, during which they endured the most terrible privations from hunger and cold, they reached a camp of natives and it was through his efforts of Seaman Nindemann and himself that the bodies of Lieutenant De Long and his companions were recovered and the records of the expedition preserved.

Governor Brackett, of Massachusetts, seven members of the governor's counsel, Hon. H. C. Hartwell, president of the Massachusetts senate, Hon. W. E. Barrett, speaker of the Massachusetts house of representatives, and forty-nine members and senators of the legislature of that State, indorse the claimant's petition, and ask that the relief prayed for be granted.

After a review of the facts your committee recommend the passage of the bill with the following amendments: Insert after the words "pension rolls," in line 4, the words "subject to the provisions and limitations of the pension laws;" also strike out all after the word "ocean," in line 6.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1796.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 24, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11726.]

The Committee on Pensions, to whom was referred the bill granting an increase of pension to Noah Bisbee, have examined the same, and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11726) to increase the pension of Noah Bisbee, submit the following report:

Noah Bisbee, while serving as a private of Company K, Eighty-ninth Regiment New York Volunteers, and engaged in front of Petersburgh, Va., June 18, 1864, received a gunshot wound of the right foot. The wound became gangrened, and on April 3, 1865, the leg was amputated about half way between the knee and ankle. In consequence of a faulty amputation the stump became a running sore, and after years of great suffering it became necessary to perform another amputation, which was done on May 5, 1889, 4½ inches of bone being removed. The stump after the second amputation was a long time healing, a portion of the tibia exfoliated and came out, which proved that there was some disease up and above the point of re-amputation. An amputation above the knee would probably remove this disease, but inasmuch as the pensioner is now nearly seventy years of age such amputation would almost surely result fatally. He never was able to wear an artificial limb. It is the opinion of his attending physicians that had his leg been amputated above the knee it would have been much better and saved him years of suffering and expenses, it appearing in evidence that the pension received by him is insufficient to pay for medical and other attendance, of which he is almost constantly in need and has been ever since his discharge.

The amputation being below the knee, the general laws permit no higher rate of pension than $30 per month, the amount now received by him. But it is clearly shown by the medical evidence on file that Bisbee is much worse off than a person with a sound stump near the hip joint and otherwise in the enjoyment of good health. His inability to wear an artificial limb, coupled with his advanced age and enfeebled constitution, due to many years of suffering from the ulcerated stump, makes him almost entirely dependent upon others for assistance, and confines him the greater part of the time to his bed.

In the opinion of your committee Bisbee should receive the same pension as those who, by reason of shortness of the stump, are unable to wear an artificial limb, and therefore report favorably on the accompanying bill and ask that it do pass, amended, however, by striking out the word "fifty" in line 7, and insert therein instead the words "forty-five."

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1797.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 24, 1890.—Ordered to be printed.

Mr. MANDERSON, from the Committee on Printing, submitted the following

REPORT:

[To accompany H. Res. 152, joint resolution authorizing the printing of eulogies delivered in Congress upon the late James Laird, two thousand copies for the use of the Senate, and four thousand copies for the use of the House, and that fifty copies be bound in morocco for the use of the family of deceased.]

The Committee on Printing, to whom was referred the above joint resolution, having considered the same, report it back with the recommendation that the same be amended as follows: In line 5 insert the word "ten" for the word "six;" in the same line, after the word "thousand" insert the words "five hundred;" in line 6, in lieu of the word "four" insert "seven," and after the word "thousand," in the same line, insert the words "five hundred," and as thus amended recommend that the joint resolution do pass. The proposed changes will make the number of copies provided for, and their distribution, conform to precedents set by Congress.

The cost will be $3,665.

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1798.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 24, 1890.—Ordered to be printed.

Mr. VOORHEES, by Mr. DANIEL, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany S. 4205.]

The Committee on Indian Affairs, to whom was referred the bill (S. 4205) to re-imburse the Miami Indians of Indiana for money improperly withheld from them, submit the following report, to wit:

In 1854 the United States made a treaty with certain Indians known as the Miamis of Indiana, whereby it was agreed that certain persons belonging to said tribe, then residing in Indiana, should receive certain annuities and lands.

It was further expressly agreed that the number of persons thus residing was 302; and their names were at the time, by the United States officials, enrolled, in accordance with the terms of the treaty, in a list known as the "corrected list," made in the presence of and approved by the Commissioner of Indian Affairs then in office.

It was further expressly agreed that no persons other than these 302, together with the increase of their families and such other persons as should be received into tribal relation with them "by the consent of the said Miami Indians of Indiana, obtained in council, according to the custom of the Miami tribe of Indiana" (see book of Indian Treaties, p. 516), should be entitled to any portion of said annuities and lands.

It is admitted by the Attorney-General of the United States, in an official communication to Congress in 1867, as well as in the debates then had in Congress, that "the tribe in council never did, according to their custom, consent to the addition of those names or to their being paid," referring to the names of 73 persons other than the original 302 and the increase of their families, which were placed on the said "corrected list" by the Secretary of the Interior under the act of Congress of June 12, 1858, passed some four years after the treaty was made. (Congressional Globe, second session Thirty-ninth Congress, 1648, 1649.)

Under this act of 1858 the Secretary of the Interior, in October, 1858, placed on said "corrected list" 68 names of persons not received into the tribe, and 5 additional names in November, 1862; so that at that time 73 in all had been added who were not listed when the treaty was made, who had not been received into the tribe by action of its council, and who were not of the increase of the families of the original 302 listed persons. To these 73, who, with the increase of their families, in 1867 amounted to 119 persons, there was paid a ratable proportion of twelve annual payments of the annuities of the said original 302 Miami

Indians, to wit: of the payments for the years 1854–'55 to 1866–'67 inclusive.

The only authority claimed by the United States officials for making these payments, which clearly, not to say ruthlessly, violated the treaty of 1854, was this act of Congress passed in 1858; an act passed without consultation with the 302 listed Indians, and it is admitted upon all hands without their consent express or implied.

It is worthy of note, also, that this act of 1858 was a provision inserted as a Senate amendment in the supplemental Indian appropriation bill of that year. The following is the discussion in the Senate upon which the action was had.

Mr. SEBASTIAN. I offer another amendment as an additional section:

SEC. 7. *And be it further enacted*, That the Secretary of the Interior be, and he hereby is, authorized and directed to pay to such persons of Miami blood as have heretofore been excluded from the annuities of the tribe, since the removal of the Miamis in 1846, and since the treaty of 1854, and whose names are not included in the supplement to said treaty, their proportion of the tribal annuities from which they have been excluded; and he is also authorized, and directed to enroll such persons upon the pay-list of said tribe, and cause their annuities to be paid to them in future: *Provided*, That the foregoing payments shall be in full of all claims for annuities arising out of previous treaties. And said Secretary is also authorized and directed to cause to be located for such persons each 200 acres of land, out of the tract of 70,000 acres reserved by the second article of the treaty of June 5, 1854, with the Miamis, to be held by such persons by the same tenure as the locations of individuals are held which have been made under the third article of said treaty.

Continuing, Mr. Sebastian says:

There is no appropriation from the Treasury in this amendment; it is a mere intertribal regulation between the Miamis of Indiana and a few families who have been improperly deprived of their annuities. It is to authorize the Secretary of the Interior to arrange and adjust the proportion of annuities among them, annuities already due by treaty.

Mr. HUNTER. Is this on the recommendation of the Department?

Mr. SEBASTIAN. The information is official and comes from the Department. They entertain no doubt as to the improper exclusion of the families mentioned in the amendment, but they do not recommend it. They thought it a matter properly referable to Congress, and the Committee on Indian Affairs report this as proper legislation by Congress.

Mr. FITCH. It is all right.

Mr. HUNTER. Does it commit us to make any appropriation—to take from one tribe to give to another?

Mr. FITCH. They are all the same tribe.

Mr. SEBSTIAN. This simply extends the pay-roll of the Indiana Miamis so as to include a few families who have heretofore been improperly excluded.

The amendment was agreed to.

The foregoing is the whole of the discussion in the Senate when the act of 1858 was passed. (Congressional Globe, first session Thirty-fifth Congress, p. 2822.)

Whether or not the act violated the terms of the treaty of 1854 was not discussed. That it violated this treaty by taking away from the original 302 listed Indians, and the increase of their families, over one-fourth of their lands and annuities, without their consent, without their knowledge, and in direct violation of their solemnly guarantied treaty rights, was not even remotely hinted at in this slight and brief discussion.

No evidence whatever of any "improper exclusion" of the added Indians was placed before the Senate at that or any other time.

When this amendment came back to the House for concurrence, the debate upon it was and the facts adduced were still more meager, if possible, than when the measure was before the Senate.

There the House, on motion of Mr. J. Glancy Jones, on June 10, 1858,

into Committee of the Whole House on the state of the Union to
der the Senate amendments to the the supplemental Indian ap-
:iation bill. (Congressional Globe, first session Thirty-fifth Con-
, p. 2910.)
e amendment (being act of 1858 under consideration) being in or-
the consideration it received was as follows:

J. GLANCY JONES. Upon examination of the matter it was ascertained that of the Miami Indians were omitted from the list. The amendment provides hey shall be reckoned in. It brings in a few Indians who were unjustly left The Committee of Ways and Means recommend a concurrence. The amendment oncurred in.

is was all the information given to the House. (Congressional
e, first session Thirty-fifth Congress, pp. 2912, 2913.) Thus did Con-
, in violation of the treaty of 1854, and of the rights of the per-
to whom the treaty guarantied them almost without consideration,
ertainly without adequate proof, parcel out the moneys and lands
e 302 to those who by that treaty had no possible right to any portion
her land or moneys.
is was all done on the assumption that these 73 added persons had
"improperly excluded" by the treaty of 1854. But if this was
hy were not the 302 given an opportunity to defend against the
ge? Surely the truth would have lost nothing by such an investi-
n. But the charge was not true. At the time of the repeal of
act of 1858, viz, in February, 1867, it was clearly shown that the 73
not entitled to be listed with the 302 for two reasons: First,
were not of full Miami blood. Second, Their right to annuities
lands rested with the remainder of the tribe, which had chosen to
rate west of the Mississippi under treaty stipulations with the
ed States, made in 1846 and 1854, and it was unjust, as well as
tive of the treaty of 1854 to list them with the 302. And after a
full discussion Congress repealed the law of 1858 on these grounds.
gressional Globe, second session Thirty-ninth Congress, pp. 1647,

is also worthy of notice that this repeal was had upon the motion of
lenate, where the mistaken action of 1858 first originated and came
way of an amendment to the Indian appropriation bill of 1867,
proposed in the Senate (Congressional Globe, second session
y-ninth Congress, 1646, 1647). And the discussion in the Senate as
e propriety of the repeal was clear and full, and conclusively
s that the act of 1858 was a clear and palpable violation of the
y of 1854, and upon the repeal of the law the 73 persons, together
the increase of their families, were dropped from the list and have
paid nothing since 1867.
t this action of Congress was only a partial reparation for the
g committed by the act of 1858. It only stopped the wrongful
ent. It did not make restitution of the lands and moneys wrong-
diverted. It is too late now to correct the wrong as to the lands
ken, for the rights of innocent purchasers have intervened and
r that impracticable. But it is not too late to restore the moneys,
h have never been refunded.
ring most of the years from 1858 to 1867 the 302 strenously
ted to the payments of which they now complain. A bill (H. R.
, first session Fiftieth Congress) was introduced into the House
e Hon. George W. Steele, then representing the district in which
Indians reside, and upon his inquiry of the Commissioner of

Indian Affairs on this point while the bill was being considered in committee, he received the following reply and document, viz:

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The undersigned, your petitioners, would, to your honorable body, most respectfully represent that they are Miami Indians, residing in the State of Indiana, and that they and their families and the persons whom they represent are the individuals referred to as the Miami Indians in the Senate amendment to the fourth article of the treaty of the 5th of June, 1854, between the United States and the Miami Indians, and whose names are embraced in the corrected list referred to in said treaty amendment; and your petitioners respectfully call your attention to that provision which stipulates that no person other than those embraced in the corrected list agreed upon by the Miamis of Indiana, in the presence of the Commissioner of Indian Affairs, in June, 1854, comprising 302 names, as Miami Indians of Indiana, and the increase of the families embraced in said corrected list, shall be recipients of the payments, annuities, commutations, moneys, and interests hereby stipulated to be paid to the Miamis of Indiana, unless other persons shall be added to said list by the consent of said Miami Indians of Indiana, obtained in council, according to the custom of the Miami Indians of Indiana.

Your petitioners further show that the Secretary of the Interior, in pursuance of the third section of an act of Congress approved June 12, 1858, entitled "An act making supplementary appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1859," has caused to be added to said list the names of some sixty persons, as we are informed That the same have been added without our consent and against our wishes, and have been paid out of our moneys. That we conceive that if the section of the act referred to was intended to refer to the Miamis of Indiana, as it is construed by the Commissioner of Indian Affairs, it is in direct violation of said treaty.

Your petitioners, therefore, humbly pray that said third section of the act referred to, or so much thereof as violates their rights and appropriates their money for the benefit of persons whom they do not recognize, may be repealed, and that the moneys heretofore diverted to that purpose may be refunded. And in duty bound your petitioners will ever pray, etc.

Done in council on the 1st day of February, 1859, at the house of Gabriel Godfrey, on the Mississinewa River, Miami County, Indiana.

(Signed with an x mark:)

John B. Bronellitt or Te-quah-vah, Peter Bondie or Waw-pow-pe-tah, Me-shing-o-me-sha. Pim-y-tinc-aw, Kil-oc-com-ach, La-maw-wah, Shaw-aw-pe-ne-maw, Waw-caw-co-now, Po-con-ge-ah, Len-e-pe shew-saw, Waw-pe-man-gnaw, Po-can-ge-ah, Ah-toh-a-toh, Pe-me-to-sin-wah, Ke-oh-cat-wah, Shp-pen-do-ciah, Ke-oh-cat-wah, Pa-len-swah, My-ac-gne-ah, Gabriel Godfrey, We-shing Goodboo, So-mile-lo-jes-ion, Sho-quang-oh, William Godfrey, Tow-wah-quah-iey.

Hon. GEORGE W. STEELE:

No written protest was filed by Miami Indians at each payment against allowing Indians placed on roll in 1858 to participate in annuities. Several of the agents making payments, however, report that these Indians were objected to.

J. D. C. ATKINS,
Commissioner.

It may be claimed that these Indians occupied the relation of wards to the United States Government, and therefore Congress had the right to pass the act of 1858, notwithstanding it violated the treaty of 1854. As a matter of mere force Congress could so act, but certainly not as a matter of conscience and right. Your committee know of no principle of guardianship which protects the guardian in appropriating the property of one ward to the use of another ward. Besides, these Indians are now and for many years have been resident citizens and voters in the State of Indiana, and were such when the act of 1858 was passed.

As to the amount that should be refunded, your committee fix it at the sum of $48,072.69; this being the amount as computed by the Interior Department in its communication to Hon. George W. Steele under date of February 14, 1887, as follows:

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 14, 1887.

SIR: In compliance with your verbal request, I submit the following statement in reference to certain Miami Indians of your State who were, under act of June 12, 1858 (U. S. Stats., 11, p. 332), enrolled with the 302 persons named in the Senate amendment to the treaty of 1854 (U. S. Stats., 10, p. 1099). * * *

Repeated efforts have been made in this office to trace the original 73 persons who were added to the Miami rolls of 1854–'55 through the rolls for the subsequent twelve payments, but owing to the brief manner of enrolling Indians for payment followed some years back, and the frequent changes in the family relations and manner of spelling Indian names, this was found to be impracticable; neither can the 119 persons finally excluded under the opinion of the Attorney-General be traced back for the same reasons, but it is believed that the total amount paid to these 73 or 119 persons named can be arrived at sufficiently close to satisfy all parties by the following method, viz: To find the number who drew a share of this money each year from 1854 to 1867, inclusive, we must first take from the 119 excluded 11 who were born subsequent to the payment of 1867, as appears by the records in this office, which leaves but 108 who actually shared in the payment of 1867 or could have shared in the other payments. To this 108 we add the original 73, making 181, which, divided by 2, gives an average enrollment for the thirteen years of 90½. In the same way we take the amount of one per capita share as the same appears on the rolls for each of the thirteen years in question, viz:

Fiscal year.	Amount.	Fiscal year.	Amount.
1854–'55	$41.49	1862–'63	$67.00
1855–'56	55.50	1863–'64	25.00
1856–'57	64.66	1864–'65	25.00
1857–'58	52.11	1865–'66	51.05
1858–'59	43.85	1866–'67	.....
1859–'60	48.71		
1860–'61	28.51	Total	531.19
1861–'62	28.51		

Which, multiplied by 90½, the average number of the 73 or 108 who shared in these payments, gives $48,072.69 as the total amount so paid, or say, in round numbers, $48,000, which is no doubt very nearly correct—I should think sufficiently so for Congress to act upon in case it is proposed to pay it or any part of it to the original 302 persons on the corrected list of 1854 and to their descendants. * * *

Respectfully,

J. D. C. ATKINS,
Commissioner.

Hon. GEORGE W. STEELE,
House of Representatives.

Calculating interest on this principal at the rate of 4 per cent. per annum from the date of the decision of the Attorney-General in 1867, which is certainly the latest time at which interest should commence, the account stands thus, to wit:

Principal	$48,072.69
Interest	43,657.31
Making a total of	$91,730.00

the sum named in the bill.

Upon the foregoing facts it is apparent that the United States has done great injustice to these Indians in withholding from them the money positively promised them by a solemn treaty, and the committee recommends the passage of the bill without amendment.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1799.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 24, 1890.—Ordered to be printed.

Mr. BATE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. Res. 169.]

The Committee on Military Affairs, to whom was referred House resolution 169, authorizing the use of a portion of the United States military reservation at Chattanooga for a public park by the city of Chattanooga, Tenn., having considered the same, adopt the report made in this case by the House committee, which report is herewith appended and made a part of this report, and recommend the passage of the resolution.

[House Report No. 2507, Fifty-first Congress, first session.]

The Committee on Military Affairs, to whom was referred House resolution 169, authorizing the use of a portion of the United States military reservation at Chattanooga for a public park by the city of Chattanooga, Tenn., having considered the same, respectfully report:

That the land referred to in said resolution is a portion of the United States military reservation at Chattanooga, Tenn., purchased about 1867 for national cemetery and for garrison purposes.

Second. That the grounds designed for national cemetery were occupied and inclosed by a substantial stone wall, without regard to boundaries of public lands, but with reference to topography of grounds.

Third. That the portion occupied for garrison purposes was abandoned for such uses about 1872, and has remained unoccupied and practically uncared for ever since; that the grounds are irregular in shape, the national cemetery being inclosed in an "*irregular circular form;*" that on the northerly portion it is 47 feet from the cemetery wall to the boundary line, on the eastwardly about 200 feet, on the southerly about 300 feet, and on the westwardly portion from about 100 feet to several hundred feet.

Fourth. That a portion of this property outside of the cemetery is a large "bayou" or sink-hole, which fills with water and is a standing menace to the health of those living in the vicinity, there being insufficient drainage.

Fifth. That a considerable portion of the grounds lying outside the cemetery inclosure has grown up during the past twenty years with trees and briers that obscure the view of the beautiful national cemetery, and by reason of this property being owned and under the control of the Government and not under the direct care and supervision of any local police authority, has become a resort of certain classes of people that are a nuisance to the citizens residing in that section, as also to the lodge-keeper or authorities in charge of the national cemetery.

Sixth. That the property referred to in resolution 169 would be largely enhanced in value by having the same improved and used for park purposes, and will add largely to the beauty and appearance of the national cemetery—as also will the national cemetery in its well kept condition add to the appearance of the grounds outside if put in condition for a public park.

The committee recommend the following amendments to the resolutions, to wit: In line 13, after the word "title," insert the words "or claim" after the words "United States;" in line 15 add, "and shall be subject to such changes and uses for military or other purposes as the Secretary of War may direct."

The committee recommend the passage of the resolution as amended.

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1800.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 25, 1890.—Ordered to be printed.

Mr. PADDOCK, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8088.]

The Committee on Pensions, to whom was referred the bill granting a pension to Thelbert H. Head, late of Company K, Second Iowa Cavalry, have examined the same and report:

After an examination of the evidence in this case, the committee find the facts clearly set forth in the appended House report and adopt it as their own.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8088) granting a pension to Thelbert H. Head, submit the following report:

This man was enlisted on the 6th day of May, 1863, and was discharged on September 19, 1865. Prior to his enlistment he was a citizen of the State of Mississippi, and he left his regiment, the Second Iowa Cavalry, after discharge at that point in that State, that being near his place of residence. On the next day after leaving the regiment, while traveling peaceably on the highway, he was fired upon by some persons who were apparently lying in wait for him, and received a gunshot wound in his left leg which fractured the bone. After lying in the highway for some time he was taken to a house near by, but received no medical attendance. As a result of the wound his limb is shortened about one inch and his foot is turned outward.

He has suffered very greatly from the wound, and a physician who has attended him testifies that he constantly suffers from ulceration of the wounded limb. Your committee are satisfied by the circumstances that the injury was inflicted because he had been a Union soldier. If he had received the injury under precisely the same circumstances but two days earlier, there would be no doubt that he would be entitled to a pension, and the committee are of the opinion that he ought not to be precluded because of the fact that he had been discharged before he received the injury, and they therefore recommend that the bill do pass.

O

1ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1801.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 25, 1890.—Ordered to be printed.

Mr. PADDOCK, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4258.]

The Committee on Pensions, to whom was referred the bill (H. R. 4258) ncreasing the pension of Francis Gilman, have examined the same and eport:

The facts in this case are fully stated in the report of the House Committee on Invalid Pensions, which is hereto appended:

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4258) ranting an increase of pension to Francis Gilman, submit the following report:

Gilman was a member of the Second Iowa Light Artillery, and was disabled in action and in line of duty at Tupelo, Miss., July 15, 1864, by gunshot wound through he right knee. His wound was very severe; the ball passed clear through the knee, rushing it severely, and he was left in field hospital because of the severity of his vound, and was taken prisoner by the enemy and remained a prisoner until in March, 865, when he was exchanged, and soon thereafter discharged.

The surgeon's certificate for discharge shows that there was partial anchylosis of he knee-joint at that time, and the evidence shows Gilman has constantly suffered reat pain from said wound; that the same is tender and the knee constantly swolen, and his leg is now drawn up at right angles with his body and total anchylosis f the knee-joint has resulted; that he is now in worse condition than if his leg had een amputated above the knee. He receives $10 per month pension. The Pension Bureau refuses to grant him an increase because the evidence shows he has from time o time suffered rheumatic pains in the disabled limb. He swears he had rheumatism n said limb when a prisoner, but has no corroborating proof—was then a prisoner, way from friends or acquaintances.

One physician who attended Gilman since the war says one of the large tendons of is leg was injured by said gunshot, which he believes caused his leg to draw up, as bove stated.

The Hon. Jos. R. Reed, now a member of this House, was in command of the said Second Iowa Battery at Tupelo, and he has filed a statement in writing with this ommittee, from which we take the following extracts:

"This man was a soldier in my company; I knew him well before he enlisted; was pupil of mine in his boyhood, and I cheerfully bear testimony to his good character. n any matter affecting my own interest I would accept and act upon his statement s readily as upon that of any man I ever knew.

"He was a good, faithful soldier, and as brave a man as I ever knew."

In view of the facts proven in this case, viz, that the proposed beneficiary, in line f duty at his post on the battle-field, was wounded in his right knee by a minie-ball, which passed through his knee, and received such care as prisoners receive who fall nto the hands of a foe, was discharged from the Army by reason of said wound, and is knee-joint was then stiffened, that it has constantly grown worse, until now he s totally disabled in his right limb; and further, in view of the fact that he is a man f integrity and truthfulness, and has testified that he contracted rheumatism when prisoner of war, and the evidence shows he was a strong and healthy man when he ntered the Army, your committee recommend the passage of said bill.

In view of the foregoing statement your committee recommend the passage of the bill with the following amendment:

In lines 5, 6, and 7, strike out the words "such increase to take effect rom the first day of January, eighteen hundred and eighty-nine."

O

51st Congress, 1st Session. | SENATE. | Report No. 1802.

IN THE SENATE OF THE UNITED STATES.

September 25, 1890.—Ordered to be printed.

Mr. Paddock, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11457.]

The Committee on Pensions, to whom was referred the bill granting an increase of pension to Mary Y. Dewees, widow of Thomas B. Dewees, late major, Ninth United States Cavalry, have examined the same and report:

That they have carefully examined the case and find the facts as stated in the House report, and adopt the views therein expressed as the views of the committee.

[House Report No. 3120, Fifty-first Congress, first session.]

The Committee on Pensions, to whom was referred the bill (H. R. 11457) granting an increase of pension to Mary Y. Dewees, submit the following report:

The beneficiary named in the bill is the widow of Thomas B. Dewees, late major of the Ninth Regiment of United States Cavalry, who died in Philadelphia, Pa., on the 5th of July, 1886, from disease resulting from wounds, hardships, and exposure in the line of duty, after a continuous service in the Army of twenty-eight years.

Thomas B. Dewees was born at Bridgeport, Pa., July 6, 1834.

He enlisted as a private in the Second Dragoons in March, 1858.

At the breaking out of the war he had risen to the rank of first sergeant, and in October, 1861, he was commissioned second lieutenant of the Second Cavalry, the regiment in which he had enlisted. On July 7, 1862, he was commissioned first lieutenant in the same regiment. In June, 1863, he was brevetted captain "for gallant and meritorious services in the battle of Beverly Ford, Virginia." In that battle his face was split open by a saber wound. He was captured at Brandy Station, Va., June 9, 1863; taken to Richmond, Va., and confined in Libby Prison, June 14, 1863; admitted to hospital, and then returned to prison. From Libby he was taken to Macon, Ga., thence to Columbia, S. C. He escaped from Columbia November 4, 1864. With four other escaped prisoners he walked barefooted from Columbia to Knoxville, Tenn., 336 miles, and reported for duty to the provost-marshal-general. He rejoined his regiment in December, 1864. July 10, 1864, he was made captain of the Second Cavalry. At the close of the war he was ordered West, and rendered valuable service in Indian campaigns under Generals Crook, Custer, Miles, Merrit, and Howard. In the campaign against the Sioux Indians under Sitting Bull his face was frozen, and he was crippled by inflammatory rheumatism, but he never left the field.

In October, 1881, he was commissioned major of the Ninth Cavalry. He was placed in command at Fort Reno, Ind. T., and subsequently at Fort Robinson, Nebr. While in command at Reno he rendered valuable service in keeping Payne's "Boomers" out of Oklahoma.

In 1885, while commanding officer at Fort Robinson, he was stricken with a fatal disease, stricture of the œsophagus, which resulted in cancer of the cardiac orifice of the stomach. His sufferings were intense and agonizing. At the same time he suffered from inflammatory rheumatism. He continued in command until ordered East for medical treatment, then a dying man.

He died in Philadelphia July 5, 1886.

General Hatch thus speaks of Major Dewees:

"As an enlisted man he was such a good soldier as to win for himself a commission in his own regiment during the early part of the war, and later the proud distinction of being one of the *beau sabreurs* of the Army. His career during the civil war was most eventful, and in Southern prisons he sowed the seeds of an insidious disease to which his splendid physical manhood finally succumbed. The regiment loses one of its favorites, the Army a gallant soldier, and the world at large a true and whole-souled man."

Mrs. Dewees is now in receipt of a pension at $25 per month under the general pension laws, but it is conclusively shown by the sworn statements of A. C. Strite, Richard R. McMahon, and the claimant that she has no other source of income and no property of any kind. Her pension is insufficient to supply the actual necessaries of life, and she therefore asks the increase contemplated by the bill.

Congress has in several instances increased the pensions of the needy and deserving widows of soldiers of the rank held by this claimant's husband to $40 per month, and your committee recommend the passage of this bill with an amendment to fix the rate of pension at $40 per month.

O

51st Congress, 1st Session. | SENATE. | Report No. 1803.

IN THE SENATE OF THE UNITED STATES.

September 26, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6052.]

The Committee on Pensions, to whom was referred the bill (H. R. 6052) granting a pension to Martha A. Bowling, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended, is adopted, and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6052) granting a pension to Martha A. Bowling, submit the following report:

William Bowling, the husband of claimant, was colonel of the Thirty-first Regiment of Kentucky State Militia, appointed by the governor of the State, by act of the State legislature.

He organized said regiment and rendered valuable service as such. There are numerous affidavits on file showing that while in said service and in line of duty he contracted disease which resulted in his death.

The only reason claimant did not secure pension in Pension Department is that the militia organizations had no military recognition and she neglected to take advantage of the act to provide pensions for this class of persons, which expired July 4, 1874.

Your committee are of the opinion that this is a meritorious claim, and recommend the passage of the bill, as the widow is now in needy circumstances, amended, however, by striking out the preamble.

O

51st Congress, 1st Session. | SENATE. | Report No. 1804.

IN THE SENATE OF THE UNITED STATES.

September 26, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9026.]

The Committee on Pensions, to whom was referred the bill (H. R. 9026) granting a pension to Nancy W. Leasure, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended is adopted and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9026) granting a pension to Nancy W. Leasure, submit the following report:

Nancy W. Leasure was the widow of Maj. Robert Warden, of the Twenty-eighth Pennsylvania Volunteers, who died in the service in 1862. She was granted a pension of $25 per month. In 1870 she married another gallant soldier, Daniel Leasure, colonel of the One hundredth (Roundhead) Regiment Pennsylvania Volunteers, brevet brigadier-general, and who died October 4, 1886.

The circumstances surrounding this case would seem to your committee to justify her restoration to the pension rolls, and they recommend the passage of the bill.

O

51st Congress, 1st Session. | SENATE. | Report No. 1805.

IN THE SENATE OF THE UNITED STATES.

September 26, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 5835.]

The Committee on Pensions, to whom was referred the bill (H. R. 5835) granting a pension to Maria B. Judah, have examined the same and report as follows:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 5835) granting an increase of pension to Mrs. Maria B. Judah, widow of Maj. Henry M. Judah, late of United States Fourth Infantry, have examined the same and recommend its passage.

Maj. Henry M. Judah graduated at West Point July 1, 1843, with General Grant. He was appointed second lieutenant of the Eighth United States Infantry on that date. Appointed second lieutenant Fourth United States Infantry April 19, 1846. Brevetted first lieutenant September 8, 1847, for gallant and meritorious conduct in the battle of Molino del Rey, Mexico. Brevetted captain September 13, 1847, for gallant and meritorious conduct in the battle of Chapultepec, Mexico. He was appointed first lieutenant of the Fourth United States Infantry September 26, 1847; captain Fourth United States Infantry September 29, 1853. While holding his commission in the Fourth Infantry he was commissioned colonel of the Fourth California Volunteers, serving from September 6, 1861, until November 8, 1861. He was appointed brigadier-general United States Volunteers March 21, 1862. Appointed major of the Fourth United States Infantry June 30, 1862. He was mustered out of the volunteer service August 24, 1865, when he returned to duty as major of his old regiment and was placed in command of Plattsburgh Barracks, N. Y., where he served until the time of his death, January 14, 1866. (See Biographical Register of the Officers and Graduates of the Military Academy, by Bvt. Maj. Gen. George W. Cullum, page 97, No. 1201, graduate of 1843, Vol. II.)

Mrs. Judah is drawing a pension of $20 per month.

Your committee recommend an increase to $25 per month, in lieu of the pension she now receives.

O

51st Congress, 1st Session. | SENATE. | Report No. 1806.

IN THE SENATE OF THE UNITED STATES.

September 26, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11650.]

The Committee on Pensions, to whom was referred the bill (H. R. 11650) granting a pension to Emily Fry, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives hereto appended is adopted and the passage of the bill is recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 11650) granting a pension to Emily Fry, have considered the same and respectfully report as follows:

Mrs. Fry filed an application in the Pension Bureau April 18, 1878, declaring that she is the widow of Nathaniel Fry, who rendered service as a soldier in the war of 1812, and while in said service participated in the battle at Stonington Point.

The claimant was married to the soldier on the 1st day of March, 1835, and he died November 24, 1857. She has not remarried since his death.

The records of the Government fail to show the service claimed, and the widow's application was rejected on that ground by the Pension Bureau.

The records of the comptroller's office, State of Connecticut, show, however, that Nathaniel Fry served as a private in Capt. Joseph Stanton's company from June 8 to June 17, 1813.

John D. Geer, of Griswold, Conn., testifies that he is seventy-three years old and was well acquainted with Nathaniel Fry, the claimant's husband; also that his (Geer's) father was a soldier in the war of 1812 and he often heard him and others who were with him say that Nathaniel Fry was in said service and participated with him (Geer's father) in the battle of Stonington.

The claimant and Joshua S. Rathburn also swear to having often heard Nathaniel Fry converse relative to his service in the war of 1812, and also to his frequently relating incidents of his said service and of his participation in the battle of Stonington.

Mrs. Fry is now aged and very poor, and your committee believe that, as an act of justice, the relief prayed for by her should be granted.

The bill is returned with a favorable recommendation.

O

51st Congress, 1st Session. | SENATE. | Report No. 1807.

IN THE SENATE OF THE UNITED STATES.

September 26, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6338.]

The Committee on Pensions, to whom was referred the bill (H. R. 6338) granting a pension to Eben Muse, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6338) granting a pension to Eben Muse, submit the following report:

The claimant was a member of Company E, Ninth Regiment of Pennsylvania Reserves, from May 1, 1861, to July 26, 1861, when discharged by reason of disability. He applied for pension on account of varicocele and scrofula contracted from exposure and hardships incident to military life, but his claim has been rejected by the Pension Office on the ground that there is no record of alleged disabilities, and the parole evidence is not deemed sufficient by that office to connect the same with the service.

It is conclusively shown that the soldier was a sound and healthy young man at enlistment; that he was exposed to long marches and hardships incident thereto, and was taken sick, necessitating his admission to the regimental hospital. The absence of the records of the same, as well as the inability of the officers and comrades to remember the nature of the sickness, makes it impossible for claimant to satisfactorily present his case before the proper bureau.

Becoming unfit for duty, the captain of the company, without proper authority, discharged claimant for disability, but his action was subsequently approved by the War Department.

There is also abundant evidence that claimant on his return home was completely broken down in health, required medical treatment, and that his disease soon thereafter developed itself as scrofula.

Claimant has always been a man of excellent habits, and is much respected in the community in which he resides.

His service is three days less than required under the act of June 27, 1890, hence can not get relief under the same, but believing the claim meritorious, your committee are of opinion that he should receive the benefits of said act, and therefore report favorably on the accompanying bill and ask that it do pass, amended, however, by striking out all between the word "provisions" and the third word "the" in line 5, and insert therein instead the words "of the act of June twenty-seventh, eighteen hundred and ninety."

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1808.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 26, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany 3796.]

The Committee on Pensions, to whom was referred the bill (H. R. 3796) granting a pension to Abraham Zimmerman, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3796) granting a pension to Abraham Zimmerman, submit the following report:

Claimant enlisted September, 1861, and was discharged in August, 1862; a private in Company G, Forty-fourth Ohio Volunteer Infantry Regiment. He was discharged, as stated in certificate of discharge, for "varicose condition of the veins of the right leg." His application for pension was rejected for the alleged reason that disability existed prior to his enlistment. He had a brother who was rejected for same disability, and it seems that some of the witnesses get the names confused.

The evidence is conflicting, and the whole case depended on the fact as to whether his disease existed prior to his enlistment; all other allegations are clearly proven. He was carefully examined and accepted as sound and healthy when he enlisted.

Your committee is of the opinion that this case should have been allowed in the Pension Bureau, and recommend the passage of the bill.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1809.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 26, 1890.—Ordered to be printed.

Mr. PADDOCK, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 7375.]

The Committee on Pensions, to whom was referred the bill (H. R. 7375) granting a pension to Susan A. Dean, widow of Mahlon C. Dean, late first lieutenant Company K, Twenty-eighth Iowa Volunteer Infantry, have examined the same and report:

That they have examined the case carefully, and find the facts as stated in the House report appended, and recommend that the bill do pass.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 7375) granting a pension to Susan A. Dean, submit the following report:

The applicant is the widow of Mahlon C. Dean, who was a soldier of Company K, Twenty-eighth Iowa Infantry. In December, 1864, said soldier was sent home on furlough. In January, 1865, when returning to his regiment he was severely frozen, from the effect of which he died in 1867. The widow applied for a pension, but the application was rejected on the ground that the soldier, being on furlough, was not in line of duty when injured. The ruling was sustained, on appeal, by the Secretary of the Interior, who makes this statement:

"It has been alleged and satisfactorily proven that the soldier while returning from his furlough had his ear frozen, and from said cause death ensued."

It will be observed that this widow would be entitled to a pension under the general law were it not for this technical ruling.

Your committee is of the opinion that in this case the soldier was obeying the implied orders of his furlough—returning to the front—and that his widow is entitled to a pension.

51st Congress, 1st Session. | SENATE. | Report No. 1810.

IN THE SENATE OF THE UNITED STATES.

September 26, 1890.—Ordered to be printed.

Mr. Paddock, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4825.]

The Committee on Pensions, to whom was referred the bill (H. R. 4825) granting a pension to Arthur Connery, of Company E, Fifty-fifth Regiment Pennsylvania Volunteers, have examined the same and report:

The facts in this case are correctly set forth in the appended House report, which is adopted as the report of this committee, with the recommendation that the bill do pass.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4825) granting a pension to Arthur Connery, submit the following report:

Arthur Connery was a soldier of Company E, Fifty-fifth Pennsylvania Volunteers. His application for pension was rejected because of want of sufficient corroborative proof of origin of disability. He claimed he was disabled by hernia contracted when on duty near Appomattox, Va., in April, 1865, but he has no hospital record. Claimant swears that his rupture was produced by marching and carrying his accouterments. A. G. Shortall, recorder of deeds of Schuylkill County, Pa., testified that he had known the claimant from childhood, and that he was sound when he enlisted, and to the same effect is the testimony of James T. Kelley. Thomas Convoy, a comrade, testifies that he slept with claimant on the march in Virginia, and that claimant complained and told him he had contracted hernia and was wearing a truss.

L. B. Bandt, surgeon of the Fifty-fifth Pennsylvania, testified that Connery complained of rupture in Virginia, and that he procured a truss for him, and that he believes he contracted hernia in the service, and it was caused by the strain of carrying his accouterments. J. A. Beaty testified that he saw the claimant on his return from the service, and knows he was then ruptured, and in 1882 O. D. Lawson examined claimant and he swears he found him suffering from hernia.

Your committee believe that the proof shows with reasonable clearness that Connery contracted hernia in the service and in line of duty, and therefore recommend the passage of said bill. The bill should be amended by striking out in the fifth line "Company B" and inserting "Company E."

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1811.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 26, 1890.—Ordered to be printed.

Mr. PADDOCK, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 2002.]

The Committee on Pensions, to whom was referred the bill (H. R. 2002) granting a pension to John C. Morrison, of Albia, Iowa, late assistant surgeon of the Thirteenth Iowa Infantry Volunteers, have examined the same and report:

Upon a careful examination of the evidence in this case the committee find the facts as set forth in the annexed House report, and adopt it as their own:

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2002) granting a pension to John C. Morrison, submit the following report:

John C. Morrison was assistant surgeon of the Thirteenth Iowa Volunteers.

He filed claim for pension for epilepsy and rheumatism. The claim was rejected by the Pension Bureau because of the failure to furnish record evidence of the origin of the disability.

The claimant suffers from epilepsy and rheumatism. James Haines and Abraham Haas testify as to soundness of the claimant prior to enlistment. Frederick Lloyd testifies to his soundness and freedom from epilepsy previous to enlistment. Ella A. Morrison, wife of claimant, testifies to the claimant's suffering from epilepsy on his return from the service. Dr. J. H. Ealy testifies that in December, 1865, the claimant had epilepsy; knew him well previous to enlistment and he was then free from epilepsy.

Dr. A. C. Moore testifies that J. C. Morrison returned home in 1864 broken down with nervous prostration and had epileptic convulsions. Dr. A. W. M. Cline testifies to epilepsy in 1866. James M. Robb, a comrade, testifies to the soldier's soundness up to 1862; the said Robb heard of the soldier's nervous prostration during the war but did not know of it personally; that the claimant has had epilepsy since 1862. In 1867 he moved to the same town with Mr. Robb. Dr. I. H. Elder testifies to epileptic fits. Dr. W. M. Glenny testifies to epilepsy from 1873. Dr. C. H. Philpott testifies to epilepsy from 1884.

It appears from this evidence that the soldier enlisted and was healthy and free from epilepsy at time of his enlistment; that he suffered with nervous prostration at his discharge and followed by epilepsy.

Whilst this evidence is not sufficient under the general law, we are well satisfied that the claimant's army service was the cause of his disease.

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1812.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 26, 1890.—Ordered to be printed.

Mr. PADDOCK, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4179.]

The Committee on Pensions, to whom was referred the bill (H. R. 4179) granting a pension to Nancy J. Dorlos, widow of George P. Dorlos, late of Company C, One hundred and seventh Ohio Volunteers, have examined the same and report:

Upon an examination of the evidence in this case the committee find the facts clearly set forth in the appended House report, and adopt it as their own.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4179) granting a widow's pension to Nancy J. Dorlos, submit the following report:

That Nancy J. Dorlos was the reputed wife of George P. Dorlos, of Company C, One hundred and seventh Ohio Volunteers; that said Dorlos married said Nancy at a time when he had another lawful wife living, which fact was unknown to said Nancy; that before said George P. Dorlos died his first wife died, after which said George P. Dorlos continued to reside with said Nancy, recognizing and treating her as his wife up to the time of his death.

There is no evidence to show a divorce from the former wife, and under the rules of the Pension Office continued cohabitation with said Nancy after the death of the former wife would not be sufficient to validate the marriage. Inasmuch as Mrs. Nancy J. Dorlos married said George P. in good faith and with no knowledge of the existence of any prior marriage, and inasmuch as she cohabited with her said reputed husband up to the date of his death and for several years after the death of the former wife, we recommend that the bill be passed and that she be put upon the pension-roll as widow of George P. Dorlos.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1813.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 26, 1890.—Ordered to be printed.

Mr. BLAIR, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6916.]

The Committee on Pensions, to whom was referred the bill (H. R. 6916) granting a pension to Adeline Bly, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives hereto appended is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 6916) for the relief of Adeline Bly, have considered the same and report as follows:

It appears from the papers received from the Pension Bureau that Adeline Bly applied for and received a pension under certificate numbered 119700 as the dependent mother of Joseph H. Bly, deceased, late of Company H, Thirty-eighth Massachusetts Volunteers, war of the rebellion. Subsequently she applied for and received a pension under certificate numbered 20918 as the widow of James C. Bly, late of the Massachusetts militia, war of 1812.

The claimant received both pensions for a time, but finally the fact became known to the Pension Office, and both pensions were suspended pending an investigation into the matter.

The proof obtained by the special examiner showed conclusively that Mrs. Bly was entirely innocent of any intent to defraud the Government. She was entirely ignorant of the law, and in making application for the second pension acted solely upon the advice of an attorney (now deceased), in whom she had confidence and who informed her that she was lawfully entitled to both.

The special examiner, during his investigation of the case, interviewed a large number of citizens of New Bedford, Mass., where the claimant resides, and they were unanimous in stating that the claimant is ignorant and poor and had not the slightest intention of defrauding the Government, but was misled in the matter.

The examiner's instructions were to recover, if possible, the amount illegally paid, which amounted to $908.67, but he found that the only property possessed by the claimant was a few worn articles of household furniture, and that she was dependent upon the charities of the town for support. Payment of all pension to her was thereupon stopped until the Government is re-imbursed for the whole sum held to have been illegally drawn, which, as stated above, amounts to $908.67. She has drawn no pension since June, 1887, and unless this bill is passed she can receive nothing more until June, 1894.

This poor widow is now seventy-seven years old, and utterly destitute. The best citizens of New Bedford, Mass., unite in saying that she is an honest, respectable woman. She drew the money, which she is now required to make good, through ignorance and without the slightest knowledge of the illegality of the act. The money was used to procure the necessaries of life. Her late husband served honorably in the war of 1812, and her son, who might have been the mainstay of her old age, had he lived, lost his life in the service of his country from wounds received therein.

In view of the facts stated your committee are of the opinion that the claimant should be relieved from further liability to the Government and that her name should be restored to the rolls from the date of the passage of this bill as the widow of James C. Bly, late a soldier of the war of 1812; also that she be paid a pension of $20 per month as provided in the bill.

The passage of the bill is recommended, with the following amendments:

Insert after the words "Adeline Bly," in line 4, the words "widow of James C. Bly;" also by changing the last paragraph of the bill so as to read as follows:

"That she be relieved from the further re-imbursement to the Government of any moneys illegally received as a pension."

O

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1814.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 26, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9565.]

The Committee on Pensions, to whom was referred the bill (H. R. 9565) granting an increase of pension to Joseph M. Wilson, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9565) granting an increase of pension to Joseph M. Wilson, submit the following report:

That claimant enlisted August 29, 1864, and was discharged July 10, 1865. He was wounded in front of Petersburgh April 2, 1865, severely in the left hand, for which he was pensioned. The character of the wound necessitated amputation of middle finger, ball having passed through third and fourth metacarpal bones. The fingers left were drawn shut. The hand was swinnied and nearly powerless and the arm was affected to the shoulder. The hand being entirely useless it was much in the way in working, and involuntarily he would bring it forward to aid his right hand. In trying to earn a living in a saw-mill it was hurt several times because of its condition, rendering him less able to act quickly, and finally it was caught in the machinery and injured so that it had to be amputated. This was about 1874. He has applied several times for increase and rerating, but as he has no wounded hand or arm to show for examination, the Pension Office can not increase his claim although his disability has increased, and under the system of liberal rerating since in vogue in the Pension Office he feels he should have an increase independent of the fact that his arm was lost because of condition of wound.

Your committee think it a proper case for relief and recommend the passage of the bill.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1815.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 27, 1890.—Ordered to be printed.

Mr. MANDERSON, from the Committee on Printing, submitted the following

REPORT:

[To accompany House concurrent resolution authorizing the printing of 31,000 copies of the sixth annual report of the United States Civil Service Commission, for the year ending June 30, 1889.]

The Committee on Printing, to whom was referred the above concurrent resolution, having considered the same, report it back with the recommendation that it do pass, and that there be printed the number provided for in the resolution, of which 2,000 shall be for the use of the Senate, 4,000 for the use of the House of Representatives, and 25,000 for distribution by the United States Civil Service Commission.

The cost of the printing and binding, as per the estimate of the Public Printer, will be $7,440.

51st Congress, 1st Session. | SENATE. | Report No. 1816.

IN THE SENATE OF THE UNITED STATES.

September 27, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10811.]

The Committee on Pensions, to whom was referred the bill (H. R. 10811) granting a pension to Asa Joiner, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives hereto appended is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 10811) granting a pension to Asa Joiner, have considered the same and report:

The claimant was a private in Capt. Greene B. Ball's company, Georgia Volunteers, Indian war of 1836, and served from May 16, 1836, to June 16, 1836.

The testimony accompanying the bill shows clearly that the claimant is eighty-four years old, very feeble, and dependent entirely upon his manual labor for support, he having no other means of livelihood.

In view of the numerous precedents for the allowance of pensions to the aged and dependent survivors of the old Indian wars, your committee recommend the passage of the bill.

O

51st Congress, 1st Session. | SENATE. | Report No. 1817.

IN THE SENATE OF THE UNITED STATES.

September 27, 1890.—Ordered to be printed.

Mr. Blair, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10810.]

The Committee on Pensions, to whom was referred the bill (H. R. 10810) granting a pension to Samuel S. Humphreys, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 10810) granting a pension to Samuel S. Humphreys, beg leave to submit the following report:

The claimant was a private in Capt. Abner Williams' company, Georgia volunteers, and served three months and sixteen days in the Florida Indian war of 1838–'39.

He asks a pension by special act at the rate of $8 per month, declaring under oath that he is seventy-two years old, and without any means of support whatever except manual labor, and he is now physically unable to do any work by which to gain a livelihood for himself and wife.

Mr. W. N. Spence, attorney, of Camilla, Ga., states that the claimant has a hard time to make a living and is very poor.

In view of the claimant's service and his great age and dependence, your committee recommend the passage of the bill.

51st Congress, 1st Session. | SENATE. | Report No. 1818.

IN THE SENATE OF THE UNITED STATES.

September 27, 1890.—Ordered to be printed.

Mr. Manderson, from the Committee on Printing, submitted the following

REPORT:

[To accompany Senate resolution to print 10,000 copies of the report No. 1584, Fifty-first Congress, first session, and Miscellaneous Document No. 217, Fifty-first Congress, first session, being the report and hearing under the joint resolution proposing an amendment to the Constitution of the United States in relation to alcoholic liquors, in pamphlet form.]

The Committee on Printing, to whom was referred the above resolution, report it back with the recommendation that it do pass.

The cost of the printing will be $250.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1819.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 29, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 4341.]

The Committee on Military Affairs, to whom was referred the bill granting right of way across the Fort Assinniboine military reservation to the Great Northern Railway, have examined the same and report:

The passage of this bill is recommended by the following letter from the War Department:

WAR DEPARTMENT, OFFICE OF THE ASSISTANT SECRETARY,
Washington, September 26, 1890.

SIR: I return herewith Senate bill 4341, "granting a right of way across the Fort Assinniboine Military Reservation to the Great Northern Railway," referred to this Department on the 25th ultimo, and invite your attention to the indorsement of the major-general commanding the Army recommending favorable consideration.

In this recommendation the Department concurs.

Very respectfully,

L. A. GRANT,
Assistant Secretary of War.

The CHAIRMAN OF THE COMMITTEE ON MILITARY AFFAIRS,
United States Senate.

Your committee recommend its passage.

O

51st Congress, 1st Session. | SENATE. | Report No. 1820.

IN THE SENATE OF THE UNITED STATES.

September 29, 1890.—Ordered to be printed.

Mr. Hoar, from the Committee on Privileges and Elections, submitted the following

REPORT.

The Committee on Privileges and Elections, to whom was referred the following resolution of the Senate, have considered the same and respectfully report:

In the Senate of the United States,
June 23, 1890.

Resolved, That the Committee on Privileges and Elections be, and they are hereby, directed to inquire as to the date on which, under the law and precedent of the case, the salaries of the Senators from the States of Montana, Washington, and North and South Dakota, respectively, began, and report their conclusions to the Senate.

The question arises under the following sections of the Revised Statutes of the United States:

Section 55. Each Senator, Representative, and Delegate is entitled to a salary (except as to the Speaker) of seven thousand five hundred dollars a year.

(Act of January 20, 1874, reduced the pay of Senators, etc., to $5,000 each.)

Section 49. When any person who has been elected a Member of or Delegate in Congress dies after the commencement of the Congress to which he has been elected, his salary shall be computed and paid to his widow, or if no widow survives him, to his heirs at law, for the period that has elapsed from the commencement of such Congress, or from the last payment received by him to the time of his death, at the rate of seven thousand five hundred dollars a year, with any traveling expenses remaining due for actually going to or returning from any session of Congress.

(See also act of January 20, 1874, reducing pay to $5,000.)

The Secretary of the Senate has collected the precedents bearing on the subject for the past forty years, which will be found in Appendix A.

It appears from these precedents that the first Senators from California received their per diem from February 13, 1850, although their State was not admitted until September 9, 1850, and they did not take their seats until September 10, 1850.

The first Senators from Minnesota, which was admitted to the Union May 11, 1858, received their pay from the beginning of the session in the previous December, although they did not take their seats until May 12, 1858.

The first Senators from Oregon and Nevada received their pay from the time they took their oaths of office, although their States had been previously admitted to the Union and they had been previously elected, and a considerable portion of the session had elapsed.

The first Senators from Kansas and West Virginia, which States were

admitted before the beginning of the session at which the Senators took their seats, were paid from the beginning of that session, although they were not elected or admitted to their seats until afterward.

The first Senators from Nebraska were qualified March 4, 1867, at the beginning of the Congress, and were paid from that day.

The first Senators from Colorado, which was admitted into the Union August 1, 1876, were elected November 14, 1876, took their seats December 4, 1876, and were paid from that day.

In the case of the Senators from Minnesota, Mr. Bayard, from the Committee on the Judiciary, to whom the matter was referred, reported as the opinion of that committee that the Senators were entitled to compensation only from the date of the admission of their State. But the Senate twice passed a joint resolution directing them to be paid from the beginning of the session. This resolution did not pass the House; the Senate, therefore, at a subsequent session ordered such payment to be made from its contingent fund.

A question similar in principle has arisen in regard to Senators from States whose representation in Congress was interrupted during the rebellion and which after the rebellion were not re-admitted till the passage of an act of Congress declaring them entitled to representation. This question was referred to the Committee on the Judiciary in the case of the Senators from Virginia, who reported as follows:

The Committee on the Judiciary, to whom was referred the letter of the Secretary as to the date when the compensation of the Hon. J. W. Johnson and Hon. J. F. Lewis, Senators from the State of Virginia, should commence, beg leave to report:

That they regard the principle of the question submitted by the Secretary as settled by the Senate on the 25th of July, 1868, by the adoption of a resolution directing the Secretary to pay the Senators from the State of Arkansas from the 22d day of June, 1868, and the Senators from Florida, North Carolina, South Carolina, and Louisiana from the 25th of June, 1868, being the dates when said States were by law respectively declared entitled to representation in Congress. They, therefore, recommend for adoption the following resolution:

Resolved, That the Secretary be directed to pay the Senators from the State of Virginia the compensation allowed by law from the 26th day of January, 1870, the date of the act declaring said State entitled to representation in the Congress of the United States.

In pursuance of this recommendation, the Senate passed the resolution proposed by the committee. The following named Senators, also, were paid from the date of the admission of their States, respectively:

Senators McDonald and B. F. Rice, of Arkansas.
Senators Osborn and Welch, of Florida.
Senators Pool and Abbott, of North Carolina.
Senators Robertson and Sawyer, of South Carolina.
Senators Kellogg and Harris, of Louisiana.
Senators Lewis and Johnson, of Virginia.

It thus appears that the great weight of the precedents is in favor of the payment of Senators from the date of the admission of their States. The exceptions in the two cases of California and Minnesota were doubtless occasioned by the fact that those States were organized and had appointed Senators before they were admitted, and that the gentlemen elected had been in attendance, urging the admission of their States, which was delayed by Congress.

We therefore recommend the passage of the following resolution:

Resolved, That in the judgment of the Senate, the Senators from the newly admitted States of North Dakota, South Dakota, Montana, and Washington, are entitled to receive their compensation as Senators from the date of the admission of their States.

APPENDIX A.

California admitted into the Union September 9, 1850. Two Senators were elected December 20, 1849, and were qualified September 10, 1850. They received their pay from February 13, 1850.

The statute of January 22, 1818, was then in force, which provided for a per diem compensation of $8 a day each day "he has attended or shall attend," and "that the said compensation which shall be due to the members of the Senate shall be certified by the President thereof." This last provision was interpreted by the act of September 30, 1850, to make the certificate of the presiding officer final and conclusive.

Oregon was admitted into the Union February 14, 1859. Two Senators were elected, one January 13, 1859, the other July 1, 1858; both qualified February 14, 1859, and received their pay from the same day.

Kansas was admitted January 29, 1861. Two Senators were elected April 4, 1861; qualified July 4, 1861, and paid from March 4, 1861.

West Virginia was admitted December 31, 1862. Two Senators were elected August 4, 1863, qualified December 7, 1863, and paid from March 4, 1863.

Nevada was admitted October 31, 1864. Two Senators were elected, one December 15 and one December 16, 1864; both were qualified February 1, 1865, and paid from same day.

Minnesota admitted May 11, 1858. Two Senators elected December 19, 1857; qualified May 12, 1858. Paid from the commencement of the session at which the State was admitted.

(Judiciary Committee reported that they should be paid from date of admission.)

During this period, 1859–1865, the statute of August 16, 1856, was in force: That the compensation of each Senator, etc., shall be $6,000 for each Congress, and mileage as now provided, etc., to be paid in manner following, to wit: On the first day of each session each Senator, etc., shall receive his mileage for one session, and on the first day of each month thereafter during such session compensation at the rate of $3,000 per annum during the continuance of such session, and at the end of such session he shall receive the residue of his salary due to him at such time at the rate aforesaid still unpaid.

In case of death of any Senator before the first session of Congress, he shall receive neither compensation nor mileage. In the event of death after the commencement of the first session, a Senator's representatives shall be entitled to receive so much of his compensation, computed at the rate of $3,000 per annum, as he may not have received.

Nebraska admitted March 1, 1867. Two Senators were elected July 11, 1866, qualified March 4, 1867, and paid from the same day.

The act of July 28, 1866, was then in force: "The compensation of each Senator, etc., shall be $5,000 per annum, to be computed from the first day of the present Congress."

Colorado admitted August 1, 1876. Two Senators were elected November 14, 1876, qualified December 4, 1876, and took their seats and received their pay from December 4, 1876.

The law of January 20, 1874, was then in force, which repealed the act of 1873, providing for the increase of salaries of Senators, "and the salaries, compensation, and allowances of all said persons, except as aforesaid, shall be fixed by the laws in force at the time of the passage of said act."

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1821.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 29, 1890.—Ordered to be printed.

Mr. GRAY, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany H. R. 17.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 17) to remove the charge of desertion from the record of Michael Meskell, submit the following report:

The committee adopt the report of the House Committee on Naval Affairs, which is as follows:

The committee, to whom was referred the bill (H. R. 17) to remove the charge of desertion from the record of Michael Meskell, find from the papers submitted that the said Meskell enlisted in the United States Navy on March 20, 1865, and served as an ordinary seaman on board the U. S. S. *Pocahontas*. On the arrival of the vessel at New York in July, Meskell went on shore without leave, with no intention to desert, and before the expiration of twenty-four hours he voluntarily returned to report for duty, but his name having already been recorded as a deserter, permission to return to duty was refused him.

The reason assigned by Meskell for his temporary absence from the ship was that his sister and brother (whom he had not seen in many years) had just arrived in New York, and with whom he spent the day, and he states that he had not the least idea that his short absence from the vessel under these circumstances was such a breach of discipline that was to be so severely punished. If he had, he would not have gone on shore. It also appears that Meskell exerted every effort to have the stigma hanging over him removed, in which he was supported by a numerously signed petition of the citizens of West Troy, N. Y., all of whom bore testimony as to his good character and worth. Since the pending bill for the relief of Meskell has been under consideration the applicant has died, leaving a large family—eight children—in whose behalf his surviving widow appeals that the charge of desertion may be removed for the benefit of his children.

In view of these facts your committee believe that the charge of desertion should be corrected, and we accordingly recommend that the bill do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1822.

IN THE SENATE OF THE UNITED STATES.

September 29, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 10682.]

The Committee on Pensions, to whom was referred the bill (H. R. 10682) granting a pension to Jerusha P. Harding, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 10682) granting a pension to Jerusha P. Harding, submit the following report:

Jerusha P. Harding was pensioned as the mother of William L. Harding, who enlisted August 14, 1861, as musician in Company E, Forty-ninth Regiment Pennsylvania Volunteers, and died in hospital December 11, 1862, of chronic diarrhea. It subsequently appeared that she was not the natural mother of the soldier, and her name was dropped from the pension-rolls.

The following facts are shown by the evidence on file:

The mother of the soldier died June 26, 1845, at which time the latter was four years of age or less. The proposed beneficiary was a near neighbor to the soldier's family. The soldier and a younger brother were, upon the death of their mother, placed in charge of this woman, who had the entire care of same until two years later, when she married their father. He died September 12, 1854, leaving her again entirely in charge of these children. William L. Harding became the main stay of his foster and step mother as he grew older, and at all times gave strong evidence of his affection and love for her. Numerous letters written by the soldier during his service, and now on file with the papers in the case, to his "dear mother," shows the great interest he took in her welfare, as well as contributions during that period.

Mrs. Harding considered herself as fully entitled to pension, and therefore applied. The soldier's letters bore upon their face the evidence of relationship, and little else was necessary to satisfy the Pension Office on that point. Evidently the application was made in good faith, and when informed that none but natural mothers are provided for in the law, she did not hesitate to aid the office in arriving at the facts in the case.

She is old and without means of support, except which are derived from her own daily labor.

The facts in the case seem to warrant the granting of the relief asked for. The bill is therefore returned, with the recommendation that it do pass.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1823.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 30, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 11304.]

The Committee on Pensions, to whom was referred the bill granting a pension to Mary Jane Blackledge, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended and adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 11304) granting a pension to Mary Jane Blackledge, having examined and considered the same, report the same back to the House with a recommendation that it do pass.

The facts, as fully shown by the record and the affidavit of Mrs. Blackledge, are, that she was the widow of George Goodman, a private in Company F, Twenty-fourth Regiment of Iowa Volunteers, and who was killed in battle in 1862, leaving his widow and four minor children entirely without means of support.

That thereafter his widow was allowed a pension of $96 a year, but which, even with the efforts of the mother, was wholly inadequate to the support and education of this family, and that an opportunity for marriage was offered to the widow and to a man who had some property, which was accepted and under circumstances which promised to give an opportunity to this widow to educate her children, but that shortly after this marriage the husband became a confirmed invalid and died in 1883, his property having become entirely dissipated in his illness, and she was left again a widow, and penniless, and is now in that condition, nearly sixty years of age, and unable by loss of health to earn a living, and has no one able to support her and upon whom she can call for aid in her extremity. The case is entirely in the line of precedent, and we think relief should be extended and the bill passed.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1824.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 30, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 8124.]

The Committee on Pensions, to whom was referred the bill (H. R. 8124) granting a pension to George Everts, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended is adopted, and the bill recommended to pass.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 8124) to pension George Everts, submit the following report:

George Everts, Company A, Fifteenth Iowa Infantry Volunteers, filed his claim No. 606803 for an invalid pension. House bill 8124 is supported by a petition signed by a very large number of his neighbors in which the merit of his claim and his necessity for a pension are vouched for. The petition states his inability to furnish the proof required by the rules of the Pension Bureau as to the origin of his disability.

C. H. T. St. Clair has filed an affidavit with the committee in which he states that the claimant is old and broken down in health and suffering from heart disease, disease of the spine, and rheumatism; that he is confined to his bed a part of the time each day. The claimant states that his diseases were contracted from hard marching and exposure on march at Black River, Mississippi, in the spring of 1864.

The surgeon's certificate of the board of examiners at Fairfield, Iowa, states that the disability of the soldier is total.

Rufus A. Eno testifies to his acquaintance with the soldier since 1881, and describes his disability substantially the same as said St. Clair.

E. F. Williams, another neighbor who has known the claimant from 1876 and had opportunities to know him, states the disability to have been continuous.

Dr. J. C. Millikin also testifies as to the disability in 1882.

The records of the War Department show the sickness of the soldier in Marietta, Ga., in July, 1864, and to February, 1865; and absent, sick, in February, 1865; sick in May, 1864; had diarrhea in July, 1864.

Charles Baily testifies that he knew the soldier in 1873, when he was suffering from disease, but does not clearly state the nature of the disease.

A further record of the War Department on file shows that the soldier suffered from remittent fever, chronic diarrhea, acute diarrhea in 1864, and in 1865 chronic hepatitis.

His continuous sickness during the last two years of his service, and his subsequent illness, as shown by the affidavits on file, clearly indicate that his Army service has produced his present condition of health in whole or in part.

The soldier is greatly disabled and his case is an extreme one, so that the liberal provisions of the disability act are inadequate, as his disability was evidently contracted in the service, although the proof is not clear enough to entitle him to pension under the old law.

Owing to the extent of his disability, we deem the new law inadequate, and recommend the passage of this bill.

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1825.

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 30, 1890.—Ordered to be printed.

Mr. SAWYER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 12012.]

The Committee on Pensions, to whom was referred the bill (H. R. 12012) granting a pension to Hannah B. Shepherd, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended is adopted, and the bill is recommended to pass.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 12012) to grant a pension to Hannah B. Shepherd, submit the following report:

Hannah B. Shepherd is the mother of Henry J. Shepherd, who enlisted in Company E, Ninety-sixth Regiment Ohio Volunteers, August 8, 1862, was discharged in 1865, and died of disease of lungs October 25, 1871. The mother's claim has been rejected on the ground that soldier left surviving him a widow to whom he was married on his death-bed. The widow has long since remarried and there is no one drawing any pension on account of said soldier's death.

The evidence clearly shows that the soldier's death cause was directly chargeable to malarial poisoning of an aggravated type, from which he suffered during service, and a hacking cough which developed before discharge.

It is also shown that before enlistment, during service, and after discharge, he made ample provisions for the comfortable maintenance of his mother, but his death has cut off this avenue of support, and having no property or income from any source, she is now dependent upon others not legally bound in her support.

The case comes within a well-established rule of Congress to grant relief to the poor and aged parents of those who lost their lives in the service of their country, and the committee therefore report favorably on the accompanying bill and ask that it do pass.

51st Congress, 1st Session. | SENATE. | Report No. 1826.

IN THE SENATE OF THE UNITED STATES.

September 30, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9767.]

The Committee on Pensions, to whom was referred the bill (H. R. 9767) granting a pension to John S. Ferguson, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9767) granting a pension to John S. Ferguson, submit the following report:

Ferguson was a soldier of Company F, Twenty-eighth Iowa Infantry, and was desperately wounded at the battle of Sabine Cross-Roads by a shell that exploded in close proximity to him.

His right arm was lacerated, necessitating amputation thereof above the elbow; he was wounded in right knee, shot through the left side of face, blinding left eye and almost wholly destroying the hearing of left ear, and one piece of shell wounded left elbow, injuring the bones of the arm; another piece entered the left side of his neck and is now under the left shoulder blade, causing constant pain so that he carries his arm in a sling and it is rendered almost useless. He is pensioned at $36 per month and now asks for $60 per month.

His claim for total disability was rejected by the Pension Bureau on the ground that he did not require the "constant aid of an other person." He can walk about, is unable to dress himself, is a constant sufferer, a physical wreck. Your committee, having carefully examined the evidence submitted, and also examined the wounds on the person of the applicant, believe that this is an exceptionally meritorious case, and that the beneficiary is entitled to a pension for total disability, and therefore recommend that the bill be amended by striking out the words "sixty dollars" in the seventh line thereof and inserting "seventy-two dollars," and that when so amended said bill pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1827.

IN THE SENATE OF THE UNITED STATES.

September 30, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4396.]

The Committee on Pensions, to whom was referred the bill (H. R. 4396) granting a pension to John Grant, have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 4396) granting a pension to John Grant, have considered the same, and report:

The claimant served under the name of William McKenzie, in Capt. W. A. T. Maddox's battalion of California Volunteers, from December 1, 1846, to January 28, 1847.

After the passage of the Mexican war service act, the claimant made application for pension, but his claim was rejected upon the ground that he did not serve sixty days, and was not engaged in battle during the war with Mexico.

The records fail to show that any travel pay was allowed in this case, and the report of service shows but fifty-nine days' service.

The claimant is now about sixty-three years old.

Your committee are of the opinion that the claimant should not be debarred from receiving a pension on account of the lack of one day more of service, and the passage of the bill is therefore recommended.

O

51st Congress, 1st Session. | SENATE. | Report No. 1828.

IN THE SENATE OF THE UNITED STATES.

September 30, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9254.]

The Committee on Pensions, to whom was referred the bill (H. R. 9254) granting an increase of pension to Stephen L. Kearney, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 9254) granting an increase of pension to Stephen L. Kearney, respectfully report as follows:

Applicant was a soldier in the regular Army during the war with Mexico, and served during the late war as a lieutenant in the Fifteenth Regiment of Massachusetts Volunteers, and as first lieutenant in Company G, Third Regiment United States Colored Troops; and while serving with the last-mentioned regiment in Florida he contracted rheumatism, for which he was allowed a pension of $4.25 per month under the general law, which pension he surrendered in order to receive the benefits of the act of January 29, 1887.

Under the act of February 25, 1889, his pension was increased to $12.25 per month, which sum he is now receiving. He now asks to be placed upon the pension-roll at the rate of $50 per month.

Your committee, in view of the fact that petitioner is suffering from rheumatism to such an extent as to render him unable to perform manual labor, and as there is no doubt as to the fact that his disability is due to his long and faithful service, report back the bill with the recommendation that said bill be amended by striking out the words "fifty dollars," in sixth line thereof, and inserting "twenty-five dollars," and that when so amended that said bill do pass.

O

51st Congress. } SENATE. { Report
1st Session. } { No. 1829.

IN THE SENATE OF THE UNITED STATES.

October 1, 1890.—Ordered to be printed.

Mr. Manderson, from the Committee on Printing, submitted the following

REPORT:

[To accompany S. 3096, a bill to revise the wages of certain employés in the Government Printing Office.]

The Committee on Printing, to whom was referred the above bill, report it back with the recommendation that it be indefinitely postponed.

The reason for this recommendation is that a bill of identical import has passed the House of Representatives, and that this committee has made a report upon that bill.

O

51st Congress, 1st Session. | SENATE. | Report No. 1830.

IN THE SENATE OF THE UNITED STATES.

October 1, 1890.—Ordered to be printed.

Mr. Manderson, from the Committee on Printing, submitted the following

REPORT:

[To accompany H. R. 8046, "An act to revise the wages of certain employés in the Government Printing Office.]

The Committee on Printing, to whom was referred the above bill, having considered the same, make the following report:

Following is the text of the said act:

That the rate of wages paid to printers, book-binders, and pressmen employed in the Government Printing Office shall be fifty cents per hour, the same rate as was paid prior to the third day of March, eighteen hundred and seventy-seven; that for all exclusive night work (between the hours of five o'clock postmeridian and eight o'clock antemeridian) performed by the above-named employés, an advance of ten cents per hour over the above-named rate shall be paid; that for all piece-work on the Congressional Record sixty cents per thousand ems shall be paid.

The legislation prayed for will affect at this time 962 employés, that being the number of compositors, pressmen, and book-binders employed in the Government Printing Office. The increased cost to the Government were the proposed act to become a law would be about $240,884.80, or an increase of 25 per cent.

The reduction of the wages in the Government Printing Office, which the act (H. R. 8046) seeks to restore, in 1877, was made by an amendment of the House of Representatives upon the bill (S. 1222) to provide for a deficiency in the appropriation for the public printing and binding for the fiscal year 1876–'77. The amendment read:

Provided further, That from and after the close of the present session of Congress the Public Printer shall pay no greater price for labor performed by printers, book-binders, and other employés in the Government Printing Office for each hour's work or piecework than the average price paid for an hour's work or for piecework of the same description in the cities of New York, Philadelphia, and Baltimore.

The debate in both Houses upon this proposition, which was participated in by the chairmen of the two Committees on Printing, assigns as a reason for the reduction which was made that the scale of wages in the Government Printing Office was too high when judged by the standard of wages paid for the same class of the work in the private offices throughout the country. No other reason was assigned. In speaking upon the subject Senator Anthony said:

I do not see why all other printers in the country should be taxed in order that the printers in Washington shall have higher wages for less hours of labor than are asked and paid in other cities. It makes the position of printers here an office rather than a mechanical employment, and people are constantly coming to us to get places in the Government Printing Office; not because they are good printers, but because they are good politicians, and other reasons, rather than for particular proficiency in their art.

The trades union of printers in this city is the most powerful in the country. It consists of printers a majority of whom are employed in the Government Printing Office. They, therefore, fix the rate of wages. They fix the rate of wages without consulting the employers. The printers in the Government Printing Office fix the rate of wages for the whole city. I have just been informed that the printers' union allow their men to work in the city offices for less than they do in the Government Printing Office.

Mr. Vance, of Ohio, said:

I hold in my hand a letter, which I will ask the Clerk to read; but before it is read, I will state that this matter of wages was carefully considered in the Joint Committee on Printing. The chairman of the Senate committee and myself had frequent consultations upon this matter, and agreed that it was unjust for the Government to pay a greater price by almost 50 per cent. than is paid in first-class offices throughout the country for similar work. Consequently, about the middle of last August, we joined in writing a letter, which I ask the Clerk to read:

The Clerk read as follows:

SIR: In the opinion of the joint committee on Public Printing it would be "for the interest of the Government" that you pay such rate of wages as would be the average of what is paid to journeymen printers and book-binders, and to women employed in printing and binding, in New York, Philadelphia, and Baltimore. They also suggest that you employ such number of boys and apprentices as in your opinion will best promote the public service.

Any steps which you may take in this direction, without regard to the dictation of any society or other third party, will receive the cordial approval of the Joint Committee on Public Printing.

H. B. ANTHONY,
Chairman Committee on part of the Senate.
JOHN L. VANCE,
Chairman Committee on part of the House of Representatives.

TO PUBLIC PRINTER.

Finally a conference report was agreed to, which fixed the scale of wages at 50 cents per 1,000 ems and 40 cents per hour for time-work. This was a reduction, as stated by Mr. Waldron in the debate, on existing prices of about 20 per cent., and that the prices thus fixed were as high as those paid in any city in the Union.

Your committee, by careful inquiry, have found that the statement of Mr. Waldron is still true, notwithstanding the scale of wages in private offices in cities the size of Washington has been raised somewhat.

The following statement will show the comparative wages paid in six cities at this time:

San Francisco, 50 cents per 1,000 ems; $18 per week.

Baltimore, 45 cents per 1,000 ems (day work); 45 cents per 1,000 ems (night work); $16.20 per week.

Philadelphia, 45 cents per 1,000 ems day work and same for night work; $16 per week.

New Orleans, 45 cents per 1,000 ems for night work, and 40 cents for day work; $18 per week.

Omaha, 40 cents per 1,000 ems for night work, and 37 cents per 1,000 ems, day work; $18 per week.

Washington, Government Prnting Office, 50 cents per 1,000 ems; 40 cents an hour, or $19.20 per week.

The average price paid in the five cities named above, per week, is $17.24.

The average price paid in the five cities named per 1,000 ems is 43 cents.

This is lower per week than is paid in the Government Printing Office by $1.96; and lower per 1,000 ems by 7 cents.

This statement does not take into account the item of advantage which accrues to employés in the Government Printing Office by reason of the thirty days' leave law over employés in private offices, which is about 9 per centum.

After allowing for the higher cost of living in Washington over other

cities, two or three excepted, in the United States, the employés of the Government Printing Office are still receiving considerably more wages for the same class of work than are paid in private printing establishments.

The committee addressed a series of questions to the Public Printer, to which he gave the following answers:

What is the actual and exact difference between the rates now paid and those provided for in the bill (H. R. 8046) as to each class of operatives?

Answer. The difference between the rates paid to printers, book-binders, and pressmen employed on day work would be 25 per cent.; for the same employés on night work—that is, between 5 o'clock in the afternoon and 8 o'clock in the morning—the difference would be 50 per cent. For compositors employed by the piece on the Congressional Record the difference will be 20 per cent.

What will be the difference, in the total expenditure, between the present rates and the rates under the bill?

Answer. It is difficult to answer this question with any degree of accuracy, for the the reason that the earnings of the three classes of employés named in the bill are not kept separate and distinct from the earnings of all employés of the office. There are at present 962 compositors, pressmen, and book-binders employed, whose pay, figured at the present rates (40 cents per hour), would amount to $963,539.20 per year, exclusive of extra work; therefore, if the pay of these classes should be increased 25 per cent., as proposed in the bill, such increase would amount to $240,884.80.

What percentage of advantage accrues to operatives under the thirty-days' leave law?

Answer. Nine per cent.

What is the increased cost to the Government by reason of such leave law?

Answer. During the fiscal year ending June 30, 1880, there was disbursed for leaves of absence the sum of $119,674.46.

Is it usual in private printing offices to grant leaves of absence with pay?

Answer. It is not.

What is your opinion as to the benefit to the Government, the necessity for, or the advisability of, the change proposed?

Answer. The bill is commendable in one respect, viz: That it discriminates in the rates of compensation for night-work over day-work. The rates at present in force by authority of Congress make no distinction in this respect in the wages paid compositors, pressmen, and book-binders, but, in recognition of the equities in favor of employés engaged exclusively on night-work, extra compensation has been given them during the last five years by appropriations in deficiency bills.

In all printing establishments conducted by private citizens night-workers receive more compensation than day-workers. If this distinction should be established in the scale of wages authorized by law for the Government Printing Office, the change would be, in my judgment, beneficial.

If in favor of the bill, for the best interests of the Government, have you any modification to propose?

Answer. This bill provides for paying day compositors by the hour exclusively. Type-setting in the second and third divisions of this office and in the Specification, and Congressional Record divisions has always been, and is now, paid for at piece rates. In the first division and in the job division, as well as in the four branch offices, it has been, and is now, paid for by the hour, because, from the nature of the work, computation by the piece would be impracticable. The proposed change in the mode of payment from piece-work to hour-work exclusively would not, in my judgment, be in the interest of the Government, nor would it be in the interest of the compositors, because of the inequality of individual earnings.

I would therefore recommend, in case the bill should be otherwise considered favorably by the committee, that payment for composition in the divisions I have herein named should be made by the thousand ems, as at present.

F. W. PALMER,
Public Printer.

In view of these facts the committee is of the opinion that there is not sufficient reason for the restoration of wages as proposed in the bill; yet at the same time the committee does think that a distinction should be made between day and night work. They would therefore report the bill back with the recommendation that all of section one after the enacting clause be stricken out and the following be inserted in lieu thereof: That the pay of all the employés of the Govern-

ment Printing Office engaged exclusively on night-work (between the hours of five o'clock postmeridian and eight o'clock antemeridian) shall be 20 per centum in addition to the amount paid for day labor; and as thus amended that it do pass.

It may be added that the appropriations to meet a deficiency created by night-work in the Government Printing Office for several years amount to about 20 per centum, the sum covered by the proposed amendment. Following is a statement of the appropriations made for this purpose since and including 1887:

Deficiency act for fiscal year ending June 30, 1887, contained an appropriation of $10,000 to pay 25 per centum additional to night forces in the Government Printing Office; for the fiscal year 1888 $10,000, 15 per centum additional; for the fiscal year 1889 $10,000, 15 per centum additional; for fiscal year 1890 $30,000, 20 per centum additional.

O

51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1831.

IN THE SENATE OF THE UNITED STATES.

OCTOBER 1, 1890.—Ordered to be printed.

Mr. DAVIS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 12013.]

The Committee on Pensions, to whom was referred the bill granting a pension to John D. Bagby, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended is adopted and the bill is recommended to pass.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 12013) granting a pension to John D. Bagby, have considered the same and report as follows:

The claimant, who resides at Marion, Kans., was a private in Capt. Japhet A. Ball's Company of Illinois Volunteers, and served from April 21, 1832, to May 28, 1832, in the Black Hawk war. He is now seventy-six years old, and so crippled and feeble as to be unable to perform any manual labor. He has been badly crippled for sixteen years.

Mr. Bagby has no property or income from which to support himself and aged wife, and he stands in great need of the pension prayed for. His standing in the community in which he resides is first class, and the facts above recited are vouched for by prominent citizens.

The case seems an exceptionally meritorious one, and your committee think it would be an act of simple justice to pass the bill, and that action is respectfully recommended. Amend by spelling the claimant's surname Bagby.

O

51st Congress, 1st Session. | SENATE. | Report No. 1832.

IN THE SENATE OF THE UNITED STATES.

October 1, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6356.]

The Committee on Pensions, to whom was referred the bill granting a pension to Martha A. Foster, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted, and the passage of the bill recommended to pass.

HOUSE REPORT:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6356) for the relief of Martha A. Foster, have had the same under consideration and beg leave to make the following report:

It appears from the examination of the files in this case in the Pension Office that David A. Foster enlisted in Company I, Twelfth Regiment Michigan Volunteer Infantry, on the 14th of October, 1861, for three years or during the war, and that he was subsequently wounded at the battle of Pittsburgh Landing on the 6th of April, 1862, and died from the effects of such wound at the marine hospital at Allegheny, Pa., May, 2, 1862.

His widow, the claimant named, was pensioned shortly after the death of her said husband and drew a pension as such widow until about the 1st of March, 1872. On the 12th of March, 1872, she contracted a second marriage with a man by the name of Isaac Wilson Chadwick, with whom she lived about one year and a half, when, by reason of his extreme cruelty, she was compelled to leave him, which she did.

Shortly after the said Chadwick, by fraud and misrepresentations, procured a divorce and immediately after married another woman.

The claimant in this case was induced to contract this second marriage upon representations by the said Chadwick that he was a man of abundant means and that he would secure to her during her natural life the pension she was then drawing. This he not only refused subsequently to do, but by his extreme cruelty forced her to sever her relations with him.

It further appears that the claimant is sixty-eight years of age and almost entirely destitute of means of support.

The committee therefore under the circumstances report the bill back to the House with a favorable recommendation.

O

51st Congress, 1st Session. | SENATE. | Report No. 1833.

IN THE SENATE OF THE UNITED STATES.

October 1, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6635.]

The Committee on Pensions, to whom was referred the bill granting a pension to George R. Wright, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6635) for the relief of George R. Wright, report that they have had the same under consideration, and find that at the time of his enlistment he was a resident of the city of Milwaukee, in the State of Wisconsin, and being but about eighteen years of age, duly enlisted and was enrolled in the service of the United States on or about the 23d day of December, 1862, at Milwaukee, in Company K of the Thirty-fourth Regiment of Wisconsin Volunteer Infantry; was immediately transferred to Company F, and on September 14, 1863, was commissioned second lieutenant of the Fourth Wisconsin Battery of Light Artillery; on January 6, 1865, was commissioned second lieutenant of Company F, Forty-seventh Wisconsin Volunteer Infantry; on February 16, 1865, was commissioned captain of said Company F, Forty-seventh Wisconsin Volunteer Infantry, and was honorably discharged at Nashville, Tenn., on September 4, 1865.

That said George R. Wright, while in the service of the United States, and while on a scouting expedition, marching from Tullahoma to Stevenson, Ala., in April, 1865, was for a period of from ten to fifteen days continually exposed to wet and cold without proper blankets and food; that up to the time of enlisting and during the war until the above-mentioned exposure said Wright was strong and healthy; but during said exposure and thereafter he was afflicted with rheumatism and neuralgic pains in the head and limbs and severe pains in the back and hips, as is shown by the evidence of comrades and commanding officers; that since his said exposure he has ever been subject to periodical attacks of neuralgia and severe pains in back and head, ever increasing in frequency and severity and in their wasting effect on his nervous system, and that this baneful disease, finally culminating in spinal irritation and locomotor ataxia, resulted in loss of control of the muscles, incoherency of speech, severe and frequent convulsions, and an enfeeblement and breaking down of the mind, which resulted in insanity in about the year 1884, which has now become incurable.

That the examining board at Kalamazoo, Mich., on December 15, 1886, examined said claimant and certified that he was insane, wholly incapacitated from all manual or mental labor, and required a constant attendant.

That said Wright was declared insane and admitted to the asylum at Wauwatosa, Wis., and that he has ever since and still is an inmate of that asylum. In April, 1889, M. J. White, superintendent of this asylum, at the request of the Bureau of Pensions, made a minute description of said Wright's condition, stating in substance that his symptoms presented all the evidence of general paresis; that he had no lucid intervals; that he required the constant services of an attendant for a long time after his convulsive attacks; and, "cause of disease presumably mental strain and exposure in service."

That said George R. Wright was pensioned for disease of the nervous system from November 8, 1886, at $24 per month. In July, 1889, he was granted an increase to $30, dating from April 5, 1889. Declaration for further increase on the ground of total disability, filed January 28, 1889, rejected because "insanity not shown to be result of pensioned cause. The length of time of its occurrence after service—nearly twenty years—would militate its acceptance." (See opinion of Dr. M. T. White, superintendent of insane asylum.) But Dr. White says "that the present insanity was caused presumably by mental strain and exposure in the service."

That said George R. Wright has a wife and three children dependent upon him for support. That his mother, Jane Evelyn Wright, his guardian, although with scant means and well along in years, is called upon to almost wholly support said claimant's wife and children, as well as to contribute to his maintenance in the asylum, said pension of thirty dollars a month not being sufficient to support and clothe him at said institution.

In view of these circumstances your committee are of the opinion that said George R. Wright ought to be granted an increase of pension, and therefore recommend the passage of this bill.

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51st Congress, 1st Session. | SENATE. | Report No. 1834.

IN THE SENATE OF THE UNITED STATES.

October 1, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 4728.]

The Committee on Pensions, to whom was referred the bill granting a pension to Henry W. Burlingame, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to which was referred the bill (H. R. 4728) for the relief of Henry W. Burlingame, beg leave to report:

That it appears from the records of the War Department that Henry W. Burlingame was drafted into the service of the United States October 22, 1864, from South Haven, one hundred and tenth subdistrict, Second Congressional district of Michigan, and exempted by the board of enrollment of said district by reason of "loss of right hand."

It further appears from the evidence submitted to the committee that in obedience to said draft said Burlingame started to report at Kalamazoo, Mich., as directed, for examination and enrollment into the service of the United States, and that while on his way to that city, on or about the 1st day of November, A. D., 1864, the said Burlingame in company with one Abram Johnson, who testifies in the case, went by train from Lawton to Kalamazoo, Mich., and while on said train, in the night time, it being dark, rainy, and stormy, the locomotive whistle gave the signal for a station and the train made a short stop at the village of Oshtemo, a railroad station near the said city of Kalamazoo, when the said claimant, the said Henry W. Burlingame, and the said Abram Johnson mistook said station to be Kalamazoo and stepped off the train, but upon being informed of their mistake they immediately attempted to get aboard the train, and in so doing the said Henry W. Burlingame accidentally slipped and fell between the cars and injured his right hand to such an extent that upon his arrival at Kalamazoo the army surgeon, Dr. Hitchcock, to whom he reported, advised the amputation of and did himself amputate said Burlingame's right hand above the wrist, and as a result of the loss of said hand he was afterwards exempted from enrollment.

Under the law said claimant can not obtain a pension, as he was never enrolled in the service of the United States, and therefore his only relief is by special act of Congress.

In view of the fact that the claimant in this case was thus severely maimed and crippled for life while responding to the orders of his Government, and that he is now in indigent circumstances and is dependent upon his own personal labor for the support of himself and his family, your committee are of the opinion that he should be placed on the pension-roll, and, therefore, report the bill back with a favorable recommendation.

WAR DEPARTMENT,
Washington City, June 19, 1890.

Hon. J. C. BURROWS,
House of Representatives:

SIR: Referring to your communication of the 16th instant, requesting a copy of the record of Henry W. Burlingame, who was drafted from Van Buren County, Mich., in 1864, I am directed by the Secretary of War to inform you that the records show that he was drafted October 22, 1864, from South Haven, one hundred and tenth subdistrict, Second Congressional district of Michigan, and exempted by the board of enrollment of said district by reason of "loss of right hand."

Very respectfully,

F. C. AINSWORTH,
Captain and Assistant Surgeon, U. S. Army.

51st Congress, 1st Session. | SENATE. | Report No. 1835.

IN THE SENATE OF THE UNITED STATES.

October 1, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6359.]

The Committee on Pensions, to whom was referred the bill granting a pension to Charity P. Harrison, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives hereto appended is adopted, and the bill recommended to pass.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6359) granting a pension to Charity P. Harrison, submit the following report and recommend the passage of the bill, amended by striking out the words "twenty-five" in line 8 and inserting "twelve" in place thereof.

The report is as follows:

The petition of Charity P. Harrison, a resident of Cassopolis, Mich., of the age of fifty-seven years, respectively shows that from January 15, 1863, till the close of the war of the rebellion, she was with some military organization and acting in the capacity of a nurse, much of the time at her own expense, without pay from any source; that part of the time she was enrolled as a nurse at the Columbian Hospital, Washington, and performed the duties of a hospital nurse at that place and Fredericksburgh till the war closed; that after enrollment she was paid 40 cents a day and rations, the nurses being mustered for pay once in two months, and signing pay-rolls in the hospital office; that her name is registered as a regular nurse in the Surgeon-General's Office and in the office of the Medical Director, at Washington, D. C.

That at the time she left home she was a strong, vigorous woman; that the duty performed while acting as a nurse in the service of her country, and sun-stroke received while on duty at Fredericksburgh, greatly injured her general health, which is aggravated by and increasing with her advancing years; that she is in limited circumstances, her husband an invalid, and that her relatives and friends are not in circumstances that would justify her in calling on them for pecuniary aid. She therefore prays, in view of the very small sum paid her by the United States for services rendered during the best years of her life, that she may now be allowed a monthly pension for the remainder of her days, or such other just and reasonable remuneration as she may in equity and good conscience be found to be entitled to, and begs leave to refer to certain letters touching her services, herewith presented, from parties who had personal knowledge of her life while in the service of the nation. Also submit the letter of Dr. F. E. Marsh, and ask that it may be made a part of this report. This letter is as follows:

I hereby certify that Mrs. C. P. Harrison was employed as a nurse in Columbia College Hospital, Washington, D. C., during my term of service of more than two years, 1863 to 1865, and that I was well acquainted with her during all of that time. She was capable, intelligent, and untiring in her labors to alleviate the distressed and suffering soldier, and in every way was counted among our best nurses, which embraced a corps of sixteen in number. I can not at this day particularize, but if attention to duty, correct deportment, modest demeanor, and Christain character count in the make-up of a hospital nurse, these all were a part of her possessions, and were all laid upon the altar of her country. I bespeak for her a corresponding recognition at the hands of the Government.

Dr. F. E. Marsh,
Late Acting Assistant Surgeon, U. S. A., and Assistant Surgeon Ninth Regiment, Sixteenth A. C.

Quincy, Mich.,
December, 20, 1889.

O

51st Congress, 1st Session. | SENATE. | Report No. 1836.

IN THE SENATE OF THE UNITED STATES.

October 1, 1890.—Ordered to be printed.

Mr. Davis, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 6663.]

The Committee on Pensions, to whom was referred the bill (H. R. 6663) granting a pension to James S. Smith, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the passage of the bill recommended.

HOUSE REPORT.

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 6663) for the relief of James S. Smith, hereby report that they have carefully considered the evidence in said case and find that said James S. Smith enlisted in the service of the United States on the 1st day of April, 1863, at Flint, Mich., in Company M of the Eighth Regiment of Michigan Cavalry, and on April 30 of the same year was transferred to Company I of said regiment; that at the time of enlistment said claimant was well advanced in years, being forty-seven years of age, and had been up to that time of good bodily health; that while in the service of the United States in the State of Kentucky at the time of the Morgan raid he contracted camp diarrhea; that he was admitted to the hospital at Camp Nelson, Ky., August 22, 1863, with chronic dysentery and was transferred September 5, 1863; that he entered convalescent camp hospital September 24, 1863, and that he was mustered out October 10, 1865, at Louisville, Ky.

That since the contraction of said disease the said James S. Smith has ever been a victim of chronic diarrhea, accompanied with periods of extreme constipation and resulting piles. That owing to this wasting malady he has been afflicted with a varicose condition of the anus, together with prolapsus ani at times, and with a general debility of all the vital organs, followed by a watery condition of the blood and a general breaking down of the system; so that he now is in a most wretched and pitiable state, totally incapacitated for any and all labor, losing his eyesight, enfeebled in every respect, and in very needy circumstances.

That his original declaration for pension was filed June 30, 1880, and he was pensioned from October 11, 1865, at $4 a month; that he was granted an increase to $8 from November, 1884; and that further applications for increase have been rejected, the last declaration being filed January 18, 1887, and rejected September 19, 1887, although at an examination before the examining board of surgeons at Kalamazoo, Mich., on August 3, 1887, it was certified by said board that he was "entitled to a $\frac{6}{10}$ rating for the disability caused by chronic diarrhea, $\frac{6}{10}$ for that caused by rheumatism, and $\frac{6}{10}$ caused by lung, $\frac{6}{10}$ results sunstroke, and $\frac{6}{10}$ senility. Totally incapacitated."

In view of these circumstances your committee is of the opinion that the said James S. Smith should be granted an increase of pension, and therefore recommend the passage of the bill.

51st Congress, 1st Session. | SENATE. | Report No. 1837.

IN THE SENATE OF THE UNITED STATES.

October 1, 1890.—Ordered to be printed.

Mr. Sawyer, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 9236.]

The Committee on Pensions, to whom was referred the bill (H. R. 9236) granting a pension to Mrs. Margaret O'Conner, now Sullivan, have examined the same and report:

The report of the Committee on Invalid Pensions of the House of Representatives, hereto appended, is adopted and the bill is recommended to pass.

HOUSE REPORT.

The Committee on Pensions, to whom was referred the bill (H. R. 9236) granting a pension to Margaret Sullivan (formerly O'Conner), have considered the same, and report as follows:

A similar bill was reported to the House by your committee at the first session of the Fiftieth Congress. The number of the report is 2900. Your committee adopt said report as applicable to this bill, and return the bill with the recommendation that it do pass.

[House Report No. 2900, Fiftieth Congress, first session.]

The Committee on Pensions, to whom was referred the bill (H. R. 10485) and petition of Margaret O'Conner, have considered the same, and report as follows:

The claimant asks in her petition that she be restored to the rolls as the widow of Robert O'Conner, who died in the Mexican war while a soldier in the Eleventh United States Infantry, Captain Ramsey's company. She states as follows:

"I received a pension as his widow until it was taken from me by reason of cohabiting with one John Sullivan and having children by him. Sullivan was a soldier in the late war and served until it closed with honor and bravery. Sullivan is dead, my children have left me, and I am living alone, destitute, and dependent on charity for the common needs of life. I am a very old woman and can not be a tax on our good Government more than a few years longer at best."

Your committee have investigated the case and find that the claimant's first husband, Robert O'Conner, was a soldier in Company F, Eleventh United States Infantry, from January 1, 1848. He enlisted for the war with Mexico, but died July 10, 1848, from diarrhea contracted in service.

The claimant, in 1873, was placed on the pension-roll as the widow of said soldier, but in March, 1882, her pension was suspended, and subsequently her name was dropped from the roll because she was not entitled to her pension.

The following opinion of the Acting Secretary of the Interior, when the claim was on appeal, shows the cause of dropping:

DEPARTMENT OF THE INTERIOR,
Washington, September 12, 1885.

SIR: Herewith are returned the papers which accompanied the report dated the 7th of February last, upon the appeal from the action of your office dropping the name of Mrs. Margaret O'Conner, widow of Robert O'Conner, from the pension-roll. Mrs. O'Conner was pensioned by certificate No. 7334, issued on the 31st of July, 1873, on account of the death of her husband in 1848 of disease contracted while he was a private in Company F of the Eleventh Regiment of United States Infantry, in the war with Mexico.

The report of your office, dated the 5th of May, 1884, sets forth that the name of the pensioner was dropped from the roll under the act of August 7, 1882, on account of her open and notorious adulterous cohabitation with one John Sullivan.

It is seen by this statement that the claim was rejected by the Pension Bureau on the ground of the remarriage of the widow.

The second husband, Sullivan, is dead. The claimant is in destitute circumstances. She is about seventy years of age.

Your committee are of the opinion that the remarriage of this claimant should not deprive her of her right to a pension. Her first husband (O'Conner) was a soldier, and died while in the service of his country.

The pension laws relating to the Revolutionary war allow the granting of pensions to those widows of soldiers who, having remarried, again become widows. The honorable Commissioner of Pensions has expressed himself as favorable to the enactment of a law allowing pensions to all widows of soldiers while they are widows.

Your committee recommend the passage of the bill.

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51ST CONGRESS, 1st Session. | SENATE. | REPORT No. 1838.

IN THE SENATE OF THE UNITED STATES.

OCTOBER 1, 1890.—Ordered to be printed.

Mr. MANDERSON, from the Committee on Printing, submitted the following

REPORT:

[To accompany Senate concurrent resolution authorizing the printing of 10,000 extra copies of the reports of committees and discussions thereon of the International American Conference, of which 2,000 shall be for the use of the Senate, 4,000 for the use of the House, and 4,000 for distribution by the State Department.]

The Committee on Printing, to whom was referred the foregoing concurrent resolution, having had the same under consideration, make the following report:

The reports and discussions are already in type at the Government Printing Office by order of the State Department, and will make four quarto volumes, two of which will contain 300 pages each, and the other two 600 pages each. The estimated cost of printing and binding, in paper covers, 18,000 extra copies is $18,850. Considering the great value of the reports and discussions, and the large demand that will be made upon members of Congress and the State Department for them, the committee recommend the passage of the resolution authorizing the printing of said reports and discussions in English.

C

51ST CONGRESS, 1st Session. } SENATE. { REPORT No. 1839.

IN THE SENATE OF THE UNITED STATES.

OCTOBER 1, 1890.--Ordered to be printed.

Mr. MANDERSON, from the Committee on Printing, submitted the following

REPORT:

[To accompany Senate order authorizing the printing of 500 extra copies each of public act No. 214 and public act No. 190 (the anti-trust bill) for the use of the Senate.]

The Committee on Printing, to whom was referred the above resolution, report it back with the recommendation that it do pass. The cost will be about $3.

O

51st Congress, 1st Session. | SENATE. | Report No. 1840.

IN THE SENATE OF THE UNITED STATES.

October 1, 1890.—Ordered to be printed.

Mr. Jones, of Nevada, from the minority of the Committee on Commerce, submitted the following

VIEWS OF THE MINORITY:

[To accompany S. 2792.]

The minority of the Committee on Commerce desire to submit their views on Senate bill No. 2792, "To make the Lake Borgne outlet and to improve the low-water channel of the Lower Mississippi River, and for other purposes."

The improvement of the navigation of the Mississippi River and its great tributaries, the protection of the people who live in the lowland, and the reclamation of all the alluvial land of the valley from overflow, taken together, form one of the greatest questions that the American Congress is called on to consider.

To arrive at any proper conclusion upon the subject, the first step should be to inquire into the formation and extent of the country that needs protection; whose duty it is to give that protection; and then arrive at the proper method or methods by looking for similar conditions elsewhere and what remedies have been applied.

Any one who has made even a cursory examination into the subject knows that at no great period of time in the past a long and narrow arm of the sea, with the tide ebbing and flowing, extended to above Cairo, over what are now the overflowed lands of the Mississippi Valley. This estuary was divided, first, by the projecting chain of hills that terminates at Helena, Ark., forming the valley of the Arkansas and White Rivers; second, by the lowlands, which extend from Little Rock down to the Louisiana line, sloping off to the level of the sea at high tide, forming the Upper Ouachita Valley, but leaving the Lower Ouachita, below the Arkansas line a part of the main estuary; and third, by the extension of the Ouachita Mountains in a long, narrow point far out into the ocean, between what are now the Ouachita and Red Rivers, whilst almost all of lower Louisiana from the mouth of Red River, was part of the open sea. That these divisions existed and that the flow of the upper tributaries of the Mississippi, depositing their black silt, formed the alluvial land above Helena, is shown by the nature of the soil.

The same soil is found in the White River Valley, lying between Crowley's Ridge, terminating at Helena, and the Ozark Mountains, with the black silt coming from the latter; whilst the Arkansas Valley and the Upper Red River Valley plainly disclose the deposits from the gypsum beds of the plains through which the headwaters of these rivers pass. The vastness of the main Mississippi floods caused all the lower portion of Louisiana to take on but little of the character of the Arkansas and Red River deposits, and that section shows but a trace of the gypsum

of the southern plains. One of the most striking evidences of the immense deposits made by these rivers is found in the fact that Maj. P. G. T. Beauregard, the superintendent of the construction of the custom-house at New Orleans in 1856, boring an artesian well at the crossing of Canal and St. Charles streets, in that city, bored through and brought up chips from a sound cypress log 253 feet below the surface.

The vast flood of water loaded with silt met the tide; the same result followed which always follows such an event; the fresh water was driven back, diffused along the coast, and the silt deposited. When this had continued long enough the sea was conquered and land made. The time came when the flow of the highest tide did not cover the newly-made earth. When the fresh-water floods passed away the regular flow cut a channel for itself through the new-made land; and thus the alluvial lands of the valley were gradually formed and the mouth of the Mississippi River moved from above Cairo to its present place. Still, when the great floods came they overflowed the little low-water channels, and the whole of the newly-made land was covered with water, which when it retired left each year its silt deposits to raise the land still higher. Decaying vegetation, which the hot sun brought from the rich soil, added to the increasing height, and each succeeding year saw the overflow grew less and less, until finally much of the valley land was reclaimed by its own action and the vegetable deposits from the fresh-water floods, as the fresh water had reclaimed them from the salt-water tides.

In round numbers the alluvial or overflowed lands of the valley amount to 25,000,000 acres, of which about 10 per cent. are in cultivation, and 10 per cent. would be in any event valueless, leaving 20,000,000 acres of the richest land in the world rendered practically uninhabitably because of the overflows. The improved lands, if they were efficiently protected, would be worth $50 an acre. The 20,000,000 acres of unimproved lands would be just as valuable, and whilst now practically valueless, if freed from overflow and made habitable, would be worth at least $1,000,000,000.

Nearly all these lands are in the States of Arkansas, Mississippi, and Louisiana. Under the Constitution of the United States these States could not enter into an agreement to protect themselves, as such agreements are expressly prohibited by the third paragraph of the tenth section of the first article of the Constitution. But it is clearly *not* the duty of these States to either improve the navigation of the Mississippi River or protect their alluvial lands from overflow. The river is a great national highway. Even the strictest of State rights constructionists, John C. Calhoun, admitted that it was the duty of the Government to improve the navigation of the river, and Congress has long since accepted that idea and acted upon that policy.

The waters that cause the overflow, which occasionally devastate some of the settled portions of these States, and which prevent the improvement of the vast bodies of alluvial lands in them, do not come from the States themselves. These waters invade the States, coming from New York, Pennsylvania, Maryland, West Virginia, Virginia, North Carolina, Georgia, Alabama, Tennessee, Kentucky, Ohio, Michigan, Indiana, Illinois, Iowa, Minnesota, Wisconsin, North and South Dakota, Montana, Wyoming, Nebraska, Kansas, Colorado, Missouri, and Texas, and from the Indian Territory, New Mexico, and Canada, for in all of these rain falls which flows into the Mississippi. It is the duty of the United States to protect these States from this invasion.

The problem is, "How can it be done?"

General Comstock and other engineers before the committee say it can be done by levees, the protection of the bank, and the contraction of the channel on the system adopted by the Mississippi River Commission. They claim that the statement made that levees raised the beds of rivers is false, and say that outlets would be a damage instead of an advantage. General Comstock said that the common idea that the beds of the Po and the Hoang-ho were elevated is not true.

General Comstock said:

To sum up in reference to the Po, it may be said that during the present century the levees on the Po have been systematized and raised to follow an increase in flood height that in seventy-five years amounted to about three feet along the leveed portion of the river, and that there is some evidence of a small rise in the extreme low-water surface of the river, which may be caused by a rise of the bed. It should be noticed, however, that the rise in the bed (if it really exists) amounts to only two-hundredths of a foot a year, and that the annual cost of raising levees to keep up with it would be but a small part of the annual cost of a complete system of levees.

As to the rise in the flood level as the waters are more and more thoroughly confined, it may be said that this was a necessary result of confinement; that the same thing occurs on the Mississippi, and that it will cease when the levees have been built high enough to contain the greatest floods.

On the Po, thus far, during the last seventy-five years the effect of the confinement of waters in raising the flood level has far exceeded any tendency that confinement may have had to reduce flood heights by scouring the bed.

Senator WASHBURN. Are the conditions the same in the valley of the Po as in the Mississippi Valley?

General COMSTOCK Yes, sir; essentially the same; an alluvial stream.

Senator CULLOM. So that your conclusion is that the bed of the river has not risen?

General COMSTOCK. Not to any considerable amount; not to exceed 6 or 8 inches.

Senator CULLOM. For how long a period?

General COMSTOCK. From seventy-five to one hundred years.

The Rhine is also a river which, below Dusseldorf, has long been leveed, and if levees raise the bed of a river, here they should have produced their full effects, as they are rarely broken.

Hagan (Wasserstande in den Preussischen Stromen, p. 12) carefully examines the gauge readings at Cologne, from 1846 to 1879, and at Dusseldorf, from 1800 to 1879, to detect changes in high and low water heights. Treating the gauge reading by the method of least squares, he found the most probable annual change in the water heights. At Dusseldorf he found that, with great probability, there was an annual sinking of the maximum high water in each year amounting to 0.3 inch; that the mean stage did not change, and that the annual lowest waters showed, with some probability, an annual rise of one-twelfth of an inch.

For Cologne he found that, with great probability, the high waters had sunk, and the lowest waters had risen by about the same amounts as at Dusseldorf. A rise of one-twelfth of an inch a year, or 8 inches in a hundred years, is so small as not to be an important matter in a system of levees; and if the hundred years of the table above are taken, this rise disappears.

It has often been asserted that the bed of the Hoang Ho, or Yellow River of China, has risen above the surrounding country where it is leveed. The error, originally due to Abbe Huc, has been repeated by English writers on China. The following extract from a letter to me by General J. H. Wilson (a very competent authority) gives reliable information on the subject:

WILMINGTON, DEL., *May* 6, 1890.

* * * * * * *

In reply I hasten to say that I crossed the Yellow River on the 7th of January, 1866, near the city of Kai-fong-fu, in the province of Honan, and visited the site of the great break of 1853, about 30 miles below Kai-fong-fu; also traversed its embankments or levees on both banks of the river, visiting and measuring them at various points between Kai-fong-fu and Chinau-fu, in the province of Shan-Toong, taking observations, notes, and measurements, and having specially in view the repair and maintenance of the embankments, their present condition, and the effects produced by them. I had no instruments, however, except a hand-level, sextant, and tape-line, and could take no accurate levels across embankments, bed of the stream, fore-shores, and adjacent plains, but the conclusion I came to in regard to the influence of the levees upon the bed of the river was that they had nowhere filled it to a higher level than the adjacent country. I had heard Father Huc's narrative on that point, and I visited the place at which the river had left its old channel in 1853, leading to the sea south of the peninsula of Shan-Toong, and made itself an absolutely new one to the

Gulf of Pe-Chi-Li, north of that peninsula. Between this place—known on the maps of Asia (Kirke Johnson's is the best) as Lung mum Ku—and Kai-fong-fu, the embankment was very large, but it was near the latter place that the great break occurred two years ago. This was closed after incredible efforts and great expense, and this river forced to resume its old channel, where it is now emptying itself, according to my advices of a few months ago, and where it will most probably continue to empty itself till it can find a shorter line and steeper declivity to tide-level.

By referring to my little book on China (Appleton & Co.) you will get other details.

In conclusion, I do not hesitate to say that I can not but believe that Abbe Huc was entirely mistaken in regard to the silting up of the channel, and that an exhaustive survey would prove beyond a doubt that no such silting as to raise any part of the bed above the adjacent country has ever taken place.

Yours, very truly,

JAMES H. WILSON.

Capt. Smith S. Leech, a very vivacious and fresh expert, says:

The question has been discussed over and over again as regards the elevation of the bed of the river as the result of the construction of levees, and also as to the deterioration of the channel below the outlet. I know of no *engineering* authority that can be quoted in support of this view except by garbling.

Captain Leech is specific in saying that "engineering" is the only authority that ought to be considered. If one of the committee had travelled to Ferrara or the valley of the Hoang-ho and seen, as he would have done, with his natural eye that the flow of the water of the Po and the Hoang-ho was far above the level of the plains, Captain Leech would not accept the statement as testimony. It would not be "engineering testimony" and therefore of no value. Again he says:

The super-elevation of the flood surface within the history of the Po for several hundred years, due to the extension of levees and other causes, is about 3 feet.

There is "testimony," whether "engineering" or not, which settles the questions raised in these extracts against the truth of the assertions made, and it is to that testimony we will call attention. Some of it will demonstrate that Captain Leech does not know, or if he does, did not state, the true condition of the Po.

There is no question but what the lowlands, through which these rivers pass, were formed just as the lowlands of the Mississippi River were formed, and they may be taken as representing nearly, if not quite, similar conditions.

The basin of the Po is formed by the greater Alps on the west, the Croatian and Tyrolean Alps on the north, and the Appennines on the south, with the Adriatic Sea as an outlet. From the greater Alps and the Appennines come more than a hundred streams rushing from these mountains, which uniting form the Po, and find their outlet in the Adriatic Sea, the Po being the channel through which the waters of all pass. The Adige, with its numerous branches from the Croatian and Tyrolese Alps, flows south into the same basin, and deflecting east runs parallel with the Po, entering the Adriatic but a short distance from it.

This valley, inclosed by mountains on three sides and the sea on the other, was inhabited when Rome was founded by the wolf-suckled brothers. The Etruscans even then made levees to protect themselves from the overflow of the rivers, and the waters were finally confined in channels by immense levees. The eminent French geographer, Élysée Reclus, is recognized as the highest authority. His work has been translated and printed by Appleton and is entitled "The Universal Geography." In division 1, page 210, it says:

The valley of the Po is frequently spoken of as the upper Italy, because it occupies the northern portion of that peninsula, but might be more appropriately termed the Italian Netherlands, for its elevation is less than that of any other group of provinces.

It is a river valley now, but during the Pliocene period it still formed a gulf of the sea. This gulf was gradually filled up by the alluvia brought down by the rivers, and upheaved by subterranean forces above the surface of the waters, the erosive action of the mountain torrents continuing all the while, and thus in the course of ages the basin of the Po assumed its gentle and regular slope to the sea.

Speaking of the Po, it says:

If it were not for its dikes, or *argini*, it might spread itself over the plain. These artificial embankments rival those of the Netherlands and date back to the remotest ages. Lucian refers to them as having existed from time immemorial, but they went to decay by reason of neglect. * * * In the ninth century, measures were taken to restore them. In 1480, the great work had been achieved. * * * The Paduans and other inhabitants of the lowlands were anxious to divert the volume of water by the most direct course to the lakes or lagoons, so as to avoid inundations, whilst the Venetians were solicitous to get rid of a river which threatened to fill up their lagoons and render them insalubrious. These conflicting interests gave rise to numerous wars. The possession of the coast became a question of existence to the Venetians and no sooner had they obtained it, than they set about "regulating" the Lower Brenta. By means of two canals, the river was conducted right round the lagoons to the port of Brondolia, a few miles to the north of the Adige. But the river whose course had been considerably lengthened, gradually filled up the bed in its upper course, and it was found impossible to confine it within its lateral embankments. They were broken through by the floods, no less than twenty times between 1811 and 1859, and as the channel of the river became more and more choked, a more frequen recurrence of such disasters was naturally expected. It was then resolved to shorten the course of the river to the extent of ten miles, by diverting it into a portion of the lagoon of Chioggia. The danger of irruptions has thus been averted for a time.

Further on in its description of the Po it says:

The floods rise higher than they did of yore, and it has been found necessary to throw embankments around Rivera, Sermioli, Ostiglia, Governole, Borgoforte, and other places. * * * Continuous embankments begin at Cremona, and they extend not only along both banks of the Po, but along the lower course of its tributaries. The main dikes have a length of nearly 650 miles. In addition to these there are smaller dikes traversing the space between the Froldi, or main dikes, in all directions, and inclosing willow plantations, fields, and even vineyards. In fact, the river extends to the foot of the main dikes only in a few localities. It is ordinarily only 650 to 1,600 feet wide, whilst the dikes are several miles apart to allow the river to spread during inundations.

On page 213 we are informed that 35,000,000 cubic feet per second, about one-third of its total flow, are taken out of the Po, by various outlets, for the purpose of irrigating 5,000 square miles of land. Some of these outlets, or canals, have been built for centuries, and the principal ones are the Mazza, Naviglio-Grande, Martisana, Cavour, and Verona.

The English Cyclopedia of Geography, certainly a very high authority, says of the Po:

It is embanked from below Placentia to the sea to protect the country from inundations. The Etruscans are said to have first applied themselves to embank up the Po. Near Ferrara, and below that town down to the estuary of the Po, the ordinary level of the water in the river is higher than the country near its bank.

The expert witnesses before the committee forgot to state that the waters of the Po and the Adige are drawn off by numerous outlets for the purposes of irrigation, and that these outlets are so constructed that the waters of the one river can be conducted to the other, and overflows relieved in that way. And again, nowhere is any allusion made to the fact that while the ordinary width of the water of the Po in its lower valley is from 650 to 1,600 feet, the immense embankments which prevent the overflow of the whole country inclose a space for the high waters several miles wide.

Johnson's Dictionary of Geography, ed. 1877, page 10, by Alexander K. Johnson, F. R. S. E., says:

The Po is in many parts of Lombardy above the neighboring plains. * * * The Allegito is a canal which commences near Badia and connects the Adige with the Po.

And yet, with all the efforts made, we see at times such dispatches as the following, taken from the New York Sun of July 15, 1890:

VIENNA, AUSTRIA, *July* 14, 1890.

Snow covers the central Alps and continues falling. In the district of Selgkannigert and the adjacent country, everything has a wintry appearance. The rivers in the southern Tyrolese Alps have ever overflowed their banks. The Adige from Perozen downwards has flooded the adjacent country. Half of the city of Trent, Austria, which is situated on the left bank of the Adige, is submerged.

There is another leveed river much larger than those in upper Italy. That is the Hoang-Ho in China. General Comstock denied, upon the authority of J. H. Wilson, the statement that the bed of the Hoang-Ho had been raised by leveeing until the whole valley was in danger "when the rains descended and that the floods came" into the Hoang-Ho. The following dispatch was taken from a New York paper of the 23d of July and may give him some light:

LONDON, *July* 23.

A dispatch to the Standard from Shanghai says that the floods in the Hoang-Ho have destroyed the embankments at Lunwan. Shang Tung is inundated. The Peiho is still rising. The waters cover the country as far as the walls of Pekin.

"The Universal Geography" (division 13, p. 181), describing the valley of the Honag-ho and the Wei, says:

Both rivers wash down large quantities of sedimentary matter, estimated, in 1792, by Staunton at one-fiftieth of the whole volume for the united stream. This is in excess of the average even of such rivers as the Ganges and the Peiho, which carry down an unusual amount of alluvia. These deposits are one of the great sources of danger to the riverian population. Natural embankments are thereby gradually formed along the course of the stream whose bed is raised and new channels formed during the floods, which often cause widespread ruin. Like the Nile, Po, and Mississippi, the Yellow River (Hoang-ho) thus flows occasionally at a higher elevation than the surrounding plain, although not so high as has been represented by the terror stricken inhabitants. A vast system of embankments has been erected on both sides to keep the stream within its bed during the rising of the waters. Above Kai-Fong-fu the two main dikes on the left side, each 72 feet high run, parallel and from 3,500 to 2,700 yards from the natural banks of the river, and the intermediate space is cut up into rectangular sections by transverse monnds. * * * But this very system itself, maintained by the constant labor of 60,000 hands, has the inevitable result of increasing the height of the bank by the rapid deposits of alluvia in the lateral sections.

The difference in level between the river bed and the low lying plains becomes proportionately increased, and the higher the embankments are carried the more dangerous becomes this stream. Nevertheless the risk may be diminished by the construction of canals carrying the overflow to one or the other lacustrine depressions in Kiang-ho, north of the Yang-tse-kiang. Thus in 1780 the Emperor Keing-Long caused a canal 60 miles long to be constructed in fifteen months, which diverted half the discharge of the Honag-ho into Lake Hangtzese. But in spite of all, by the bursting of the dikes, the crops of whole provinces are swept away and millions of beings become prey to famine and pestilence. For China, the Hoang-ho still remains the Nih-Ho, or "rebellious river," as it is called by the old chroniclers. The Riverian populations are always at the mercy of invading hosts, or even of predatory bands, strong enough to seize and open the sluices. In 1209 one of the few defeats experienced by Jenghis Kahn was from this cause. In 1642 a mandarin submerged the city of Kai-Fong-fu with its 200,000 inhabitants, and later on the Emperor King-Hi in the same way destroyed half a million of his subjects.

Another high authority is the. "English Cyclopedia of Geography," edition of 1855. In volume 3, page 213, in the description of the valley of the Hoang-Ho, is the following:

As the adjacent country is very low it was at an early period considered necessary to protect it against the inundations by dikes, built of granite, of great strength. These dikes extend many miles along the southern bank of the river. This had the effect which has also been experienced on the Po and the Rhine of raising the bed of the river; so that even when the river is low its surface is considerably above the adjacent plain. * * * In the reign of Khein-Long, a large canal was made for the purpose of preventing the too great accumulation of water in the Hoang-Ho. This

canal, beginning at the Y-Fong-Hein in the province of Ho-Nan, extends in a southeasterly direction to an arm of Lake Hang-Tzen-Hu. It is nearly 100 miles long, and it is stated that it had the effect of lowering the general surface of the river by about 70 feet. Large tracts of land which formerly were always under water have been made dry and rendered fit for cultivation.

Johnson's Encyclopedia, volume 4, page 50, speaking of the Hoang-Ho, says:

The immense amount of yellow clay which it carries along with it, and from which it received its name, is deposited partly at its mouth, partly in its bed. Thus not only the level of its waters but even the level of its bed is higher than the surrounding land, which must be protected against its inundations by immense levees.

It costs the Chinese Government yearly $7,000,000 to keep these levees in repair, and an extensive system of canals has been devised and constructed in order to lead part of its waters into other river beds and prevent the devastations with which it threatens one of the most fertile provinces of the Empire.

Chambers' Encyclopedia, volume 5, page 726, edition 1890, says of the Hoang-Ho:

In some parts of its eastern course, as is the case in the Po, the river bed is above the great plain through which it passes. The embankments requisite for resisting inundation are a source of never-ending expense to the Government, and their yielding to floods a frequent cause of desolation to extensive districts.

The following official correspondence fully corroborates the above:

UNITED STATES SENATE,
Washington, D. C., April 1, 1890.

MY DEAR SIR: I have seen in the past a statement that some years ago the Hoang-ho River in China had been leveed for some generations, until the tops of the levees were made about the height of ordinary houses, and the surface level of the river raised correspondingly, and that several years ago the levees had been broken and about a million persons were drowned and many millions dollars' worth of property destroyed. And later I have seen a statement that the levee had again been broken and the water turned into the sea by a shorter route, and that on this occasion many people and much property were destroyed. In discussing the subject in the Senate a few days ago of controlling the waters of the Mississippi River I repeated this statement. A friend told me to-day that he thinks I had been misinformed; that upon investigation he could find no such accounts as I had given of damage by the breaking of the levees on the Hoang-ho, and that he did not think there was any good authority for the statement that the levee was as high as I had stated it. Will you do me the favor to advise me whether the statements I made as above given are correct or incorrect? And I will take it as a favor if you will advise me whether the levees in the Hoang-ho have been raised much above the common level, and whether the raising of the levees has caused a corresponding raising of the surface of the river? Your answer will be a special favor.

I have the honor to be, yours, very respectfully,

JOHN H. REAGAN.

Hon. TSUI KWO YIRO,
Envoy Extraordinary and
Minister Plenipotentiary for China,
Washington, D. C.

WASHINGTON, D. C., *May* 3, 1890.

DEAR SIR: Your favor of the 1st instant is at hand. In reply, I beg to say that I have no personal supervision of building the levee in the Hoang-ho, so that I am not thoroughly acquainted with the subject, but these following facts I know:

That is, the Hoang-ho runs from north to south, the total length being 3,500 miles. The upper extremity of the river is freed from inundation, while the middle and lower parts traveling through the provinces of Shantung and Howan, the river runs through plains where the sediment and mud increases very rapidly, so that levees must be built higher from time to time.

The levee of the river is generally above the ordinary height of houses. The height of the water in the river is about the same level with the height of dwellings, but oftentimes it rises to the height of the embankment (which is higher than houses),

overflow, and inundates the surrounding district and province. Therefore your opinion in regard to its height and inundation is correct.

I have heard that low cities in Holland are also defended by "dikes" in a similar manner.

I have the honor to be, very respectfully, yours,

TSUI KWO YIRO.

Mr. William Henson, in his "Principles and Practices of Embanking Lands from River Floods," page 41, says of the Nile:

At Cairo, 120 miles from the mouth * * * the elevation of the land and the river bed is, since the Christian era, 5 feet 10 inches. At Thebes, 500 miles from the mouth * * * the land and the river bed have been elevated, since the birth of our Savior, 7 feet; while at the first cataract, 100 miles higher up stream, the level of the bed and the bank have been raised, since the same period, 9 feet.

The Nile has never had a levee on its banks, and the outlet system, on the most magnificent scale ever seen, was adopted 1,200 years before Christ was born, when King Moeris made the lake of that name.

Of the Rhine, Mr. Henson, evidently a careful writer, says:

The Rhine, which is leveed from the sea almost to its source, has, since the Christian era, elevated its bed at the City of Mayence, 13 feet 4 inches. The levee influence in this case has been in operation for but 300 years; and, therefore, assuming the rate of elevation in the river when it overflowed its banks as that of the average of the Nile, the bed elevation for the 1,500 years of overflow must have been 6 feet, and for the 300 years of levees to be so much as 7 feet 4 inches, or six-fold as great.

It may not be amiss to mention one more river that was both leveed and provided with outlets, and that is the Euphrates.

Quintius Curtius Rufus, in his life of Alexander the Great, gives a description of the city of Babylon, in which he says (vol. 2, page 9):

The Euphrates, intersecting the city, is confined by mounds of mighty solidity; attached to the mounds are immense excavations, sunk deep, to receive the impetuous river, which, when it overflows, would sweep down the houses, were it not diverted by subterranean channels into the lakes.

Gilles, in the history of Greece, describing the conquests of Alexander, says (vol. 4, page 271):

In winter seasons the waters of the Euphrates which produced the extraordinary fertility of Assyria, are confined within their lofty channels, but in the summer, and especially the summer solstices, they overflow their banks and instead of watering would totally deluge the adjacent territory, unless the surplus were discharged into the great canal Pallacopas.

This canal, constructed centuries before, had failed to properly perform its functions, having been built in improper ground, and when Alexander established his capital at Babylon he found great distress in parts of Assyria because of too much water passing through the canal.

Gillis says:

The governors of Babylon attempted unsuccessfully to remedy this evil (the depression of the water from the river), whose magnitude justly attracted the attention of Alexander. From war, the mother of arts, he had learned to confer the benefits of peace. While preparations were being made for more distant expeditions, he sailed down the Euphrates, carefully examining the nature of the soil, and having discovered at the distance of about 4 miles from the inosculation of the Euphrates and the Pallacopas a hard and rocky bottom, he commanded a canal to be cut, which served to moderate at one season without too much drainage of the water at another.

These authorities establish beyond controversy that in these cases levees have raised the beds of the rivers, and outlets had to be used to prevent the absolute destruction of the countries through which the leveed rivers flow. It is somewhat singular that the witnesses before the committee, who were there to furnish information to the committee, did not even allude to the fact that the main levees of the Po are, as stated in one of the above extracts, "several miles apart." They were

surely not ignorant of this geographical fact. Nor did any of them tell the committee of the great outlet of the Hoang-Ho, which it is said lowered the waters 70 feet.

It is not to be presumed, in the face of the statement made in some of the leading geographical works of the world, that any one will deny that the Emperor Kein-fong did make in 1780 an outlet to the Hoang-Ho, which carried off an immense part of its overflow waters in flood times. But even with that help and levees 72 feet high of solid granite there have been since that several disastrous floods by the breaking of the main dikes of the Hoang-Ho, which, it must be remembered, like those of the Po, "are from 2,700 to 3,500 yards from the natural banks," that is, including the width of the river from 3½ to 5 miles apart. With one half its waters drawn off to the lake, the river broke its levees and overflowed the country. Could it have done this if the bed of the stream was not above the level of the land? Did not the wise action of Kein-fong preserve the valley of the Hoang-Ho and all its people from utter destruction? An examination of the map shows that through the outlet into Lake Hang-Tzen-Hu the waters of the river reach the sea by a much shorter route than by the channel of the river. In short, this is an outlet on precisely the principle proposed by Captain Cowdon in the Lake Borgne outlet, the only difference being in the greater length of the route for the canal.

The plains of Lombardy, and the lowlands through which the Hoang-Ho passes were formed just as the lowlands of the Mississippi were formed. The conditions which govern the Po, the Hoang-Ho, and the Mississippi are similar, and despite the statements of the engineers who appeared before the committee, it must be conceded that the continuing embankments of the first-named rivers for an indefinite period in the past has raised the beds of these rivers. The inference is plain that a similar result will be produced by the system of levees on the Mississippi River. Nor is it true that any attempt has been made either with the Po or Hoang-Ho as is being made in the case of the Mississippi to confine the overflow waters within limits but little greater than those through which pass the normal flow. To control the extraordinary floods of the Po, the dikes inclose an area fifteen times as wide as the ordinary flow, whilst in the Hoang-Ho they are seven times the width of the river bed. But the commission proposed a plan which they say renders unnecessary this spreading of the levees so far apart, and that is by the construction of the low-water banks, the cutting of a deeper channel. It may be that this plan will prove successful, though so far it is a costly experiment.

But even the 5 miles in width of the valley of the Po and the 4 miles of the valley of the Hoang-Ho sacrificed to the flood to save the remainder have not proven sufficient. Outlets had to be resorted to in both instances, and only through the use of outlets have the people of the low-lands been saved from utter destruction. Nor do we find after careful examination that any of the evils so graphically depicted to the committee have followed the use of these outlets.

These authorities may not be accepted by engineers who have a theory, but to men who are not governed by theories and who do not consider an engineering education at West Point as conferring infallibility, they will be taken as convincing proof of three things: First, that levees do cause the beds of the leveed streams to rise; second, that the beds of unleveed streams like the Nile are not elevated to any dangerous extent; and, third, that great floods of water can only

be prevented from doing damage by a system of outlets which in themselves are sufficient to carry off the surplus waters.

But the Mississippi River Commission makes mistakes on other matters besides the levee systems of the rivers of the Old World. In 1880, General Comstock being then a member of the Commission, in its report (Ex. Doc. 58, page 12) we find the following:

> At the river's entrance to "The Jump" the depth is but 2 or 4 feet, and in a few years more it will be fully closed by the river deposits. * * * Should the outlet be made to connect the river with Lake Borgne, results precisely similar to those which have occurred at "Cubbitt's Gap" and "The Jump" must be confidently anticipated.

Again, in 1882, General Comstock, before a committee of Congress, said in answer to Mr. White: "The Jump fills itself up," and "The Jump, I think, has filled itself up entirely." And again, "The Jump filled itself up; but there is some evidence that immediately below a shoal was formed." And yet again, "On the other hand, The Jump did close itself up, and why should not the Lake Borgne outlet do the same thing?"

In the examination just concluded the following colloquy occurred:

> Mr. COWDON. It has been stated that The Jump shoaled itself up to 4 feet at its intersection with the Mississippi River, and that was given as evidence why the Lake Borgne outlet would close. I want some gentleman to look at this chart and see if that is correct. Some Senator get up and look at this map.
>
> General COMSTOCK. I doubt if I gave that testimony as to being only 4 feet. I will say, speaking from recollection, that while the jetties were being built I went in there one day and was told it was filling up rapidly, and that there was great difficulty in getting a steam-boat about in there.
>
> Senator WASHBURN. How late in edition is this map?
>
> Mr. COWDON. The first date was in 1874, and it was revised in 1884 and 1885.
>
> General COMSTOCK. I would say that it is difficult to tell on that map when the survey was made.
>
> Mr. COWDON. The map was made two years after the survey was made.
>
> General COMSTOCK. It was made in 1887, but the survey may have been made ten years before. It is a Government map.
>
> Mr. COWDON. That report was made in 1880. I went there and got the proofs. I measured it, and found 56 feet of water.
>
> General COMSTOCK. How far did you go down?
>
> Mr. COWDON. I went down about three-quarters of a mile.

The Government chart showed the existence of 56 feet of water, and the actual measurement by Captain Cowdon confirmed the statement. General Comstock had forgotten his previous statements, but there it is from the official record, and the proof that the commission was mistaken. The commission also stated that the river had shoaled below that outlet when the same Coast Survey chart shows that below the outlet the depth in the channel was 30 fathoms, when for the same distance above the depth of channel was 15 fathoms.

Nor does the commission agree with itself. On page 20 of the testimony before the committee we find this:

> Senator CULLOM. How much would it cost to levee it?
>
> General COMSTOCK. There has been no estimate made of that at all.
>
> The CHAIRMAN. Suppose you built the levees at the same time, what would it cost?
>
> General COMSTOCK. So far as getting ten feet of water, it might take off $10,000,000.
>
> The CHAIRMAN. It would take off $10,000,000?
>
> General COMSTOCK. The works on the bed of the river might cost $10,000,000 less if you made a perfect system of levees.
>
> The CHAIRMAN. How much does the perfect system of levees add?
>
> General COMSTOCK. There has been no estimate made of it. The commission made an estimate in 1884 and 1885, I think, of levees at a certain height, at $11,000,000. *I think that is too small for a perfect system of levees.*

On page 47, Capt. Smith S. Leach says: "Ten millions will put up a line of levees 4 feet above the highest known water." This same Captain

Leach in 1888 said before a Senate committee that the cost of these same levees would be $2,000,000. On page 48, Major Harrod says: "$4,000,000 or $5,000,000 will do the work. Mr. Richardson, State Engineer of Louisiana, says on page 87, in answer to Senator Gibson:

Senator GIBSON. What would be the total amount of money at which you estimate the cost of the levees on the Mississippi River?

Mr. RICHARDSON. I would put that at about $6,000,000; the value of the leeves that are now there, estimating at about a little less than 20 cents from one end of the State to the other on the Mississippi.

That is for the State of Louisiana alone, probably about one-fourth of the whole system of levees needed from Cairo down. Mr. Richardson further says, page 89, that $24,998,027 have been expended in Louisiana and Mississippi on levees between 1865 and 1889. The expert engineers do not agree with each other.

But the commission of experts does not agree with itself. In 1882 General Comstock, then a member and now president of the Commission, was before a committee of the House and the following is taken from the proceedings of that committee, General Comstock being examined:

Question. How much money do you ask to be appropriated to carry out the plan adopted by the river commission?—Answer. About $33,000,000 is the total amount.

In 1888, before a Senate committee, after the expenditure of several million dollars on the plans of the commission, the following occurred, General Comstock being again on the stand:

Question by Mr. FARWELL. The main question is as to the permanency of the work after we have spent $33,000,000; will that be the end of the expenditure in fact, or if not, what additional annual expenditure will be required to keep up the work?

A. I do not think that estimate of $33,000,000 is nearly adequate. I would say twice or three times that amount for a permanent improvement of the Mississippi River.

Q. You think it would cost $90,000,000?—A. It would cost twice or three times $33,000,000.

Q. And that entirely in the interest of navigation and without any reference to overflows whatever?—A. Without any reference to overflows whatever.

In 1890, General Comstock tells us it will cost $75,000,000. Mr. Leach, in 1888, said the cost of the 10-foot channel would be $33,000,000, when in 1890 he said that $50,000,000 will do it handsomely. In 1883, when before the Burrows committee, Major Suter said that the 10-foot channel could be made for $25,000,000.

What are we to think of these conflicting statements? Is it not evidence that the Commission is engaged in guess work as to the cost of their proposed improvement?

But admitting that it has guessed right in any one of its various estimates, the minority would have to dissent from the report. The evidence seems to be conclusive that through the system adopted we will not attain the desired end, and that it can be secured through the method proposed by Captain Cowdon; and he asks for no appropriation until success is assured in three years time, and then only for $10,000,000. Therefore the minority recommends that the bill be placed on the Calendar and passed.

O

51st Congress, 1st Session. | SENATE. | Report No. 1841.

IN THE SENATE OF THE UNITED STATES.

October 1, 1890.—Ordered to be printed.

Mr. Manderson, from the Committee on Printing, submitted the following

REPORT:

[To accompany S. 1893, a bill to publish the Revised Statutes.]

The Committee on Printing, to whom was referred the above bill, respectfully report it back with the recommendation that it be indefinitely postponed. The reason for this recommendation is that a very similar bill became a law April 9, 1890. The bill was S. 567, and was entitled "A bill to continue the publication of the supplement to the Revised Statutes." It was introduced December 5, 1889, and was referred to the Committee on the Revision of the Laws. A favorable report (No. 44) was made from that committee January 6, 1890, and the bill became a law on the date above.

O

51st Congress, 1st Session. | SENATE. | Report No. 1842.

IN THE SENATE OF THE UNITED STATES.

October 1, 1890.—Ordered to be printed.

Mr. Manderson, from the Committee on Printing, submitted the following

REPORT:

[To accompany House concurrent resolution authorizing the printing of 500 copies of the Digest of Claims, the same, when printed, to be placed in the hands of the Clerk of the House for use of Senators and members of the House of Representatives.]

The Committee on Printing, to whom was referred the above concurrent resolution, having had the same under consideration, make the following report:

The Digest of Claims consists of an alphabetical list of claims for stores and supplies alleged to have been taken by the Union Army, referred to the Court of Claims under the provisions of the so-called "Bowman Act," and in number about 4,800 claims.

The document will make about 150 octavo pages, uniform in size and style with the list of private claims prepared by the Clerk's office of the House of Representatives. The digest was prepared by Mr. J. B. Halloway, and the cost paid out of the contingent fund of the House.

The cost of the printing will be $1,184.

The committee report the resolution back with the recommendation that it do pass.

O

51st Congress, 1st Session. | SENATE. | Report No. 1843.

IN THE SENATE OF THE UNITED STATES.

October 1, 1890.—Ordered to be printed.

Mr. Hawley, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany the following resolution adopted by the Senate on the 27th day of May, 1889]:

Whereas it appears that by an act approved March 3, 1885, the sum of $160,000 was appropriated to enable the Secretary of War to acquire a good and valid title for the United States to the Fort Brown military reservation, Texas, and to pay and extinguish all claims for the use and occupation of said reservation, provided that no part of this sum should be paid until a complete title be vested in the United States; and

Whereas it appears that for the reason of disputes as to respective shares of claimants the said law was never executed; and

Whereas by an act of Congress passed in 1875 the sum of $25,000 was appropriated for the same, said purchase indicating the estimate of value at that time; and

Whereas from documentary evidence on file in the War Department, and from the testimony of army officers and civilians, it is alleged that the sum of $50,000 would be a large price to pay for the title and occupancy of the said premises: Therefore,

Resolved, That the Committee on Military Affairs be instructed to take into consideration the subject of the value of said reservation and the amount justly due for use and occupation of the same, and to report by bill or otherwise.

Resolved, That the Secretary of War be requested to withhold the payment of any part of said sum of $160,000 for the grounds and rents of the said Fort Brown reservation.

The act of March 3, 1885, reads as follows:

To enable the Secretary of War to acquire good and valid title for the United States to the Fort Brown reservation, Texas, and to pay and extinguish all claims for the use and occupancy of said reservation by the United States, the sum of $160,000: *Provided*, That no part of this sum shall be paid until a complete title is vested in the United States; and the full amount of the price, including rent, shall be paid directly to the owners of the property.

The act of March 3, 1875, provides:

The following sums, or so much thereof as may be necessary, are hereby appropriated for the purchase of the following sites for forts in the State of Texas, in accordance with the resolutions and recommendations of the board of officers appointed under act of March 3, 1873, entitled "An act to provide for the purchase, by the Secretary of War, of land for the United States for the sites of forts and military posts:" Fort Brown, $25,000, etc.

The following extract from a letter written by General Stanley, January 14, 1888, will serve as an introduction:

The post was established in 1846 by General Taylor, at the outbreak of the Mexican war, and has been occupied by United States troops ever since, excepting the interval of the civil war, when it was held as a very important post by the Confederate authorities. The improvements on the reservation consist of about forty buildings of more or less value. Of these twelve are of brick and substantial; the remainder of frame

in fair condition, but needing repairs. Fort Brown, as a military station, is an absolute necessity, and occupies a very important point geographically and strategically on our Mexican frontier. Granting that we have no desire for Mexican territory, and hoping that we may never again have war with Mexico, the necessity for this post still remains.

The nearest military post to Fort Brown is Fort Ringgold, 100 miles by land, 300 by river, and on the left bank of the Rio Grande. The frequency of thefts of horses and cattle and of crimes of violence to persons and robberies of stores and ranches on the frontier between Ringgold and Fort Brown has made it necessary to keep up two special stations with a detachment of troops at each, one at Santa Maria, 25 miles from Fort Brown, and one at Edinburgh, 58 miles from Fort Brown.

Matamoros, opposite to Fort Brown, has a population of 18,000 and is the principal city in the State of Tamaulipas. which has a population of 120,000. This State of Tamaulipas is noted for the turbulent, warlike, and aggressive character of its people. It is safe to say that one-half the revolutions that have disturbed the Republic of Mexico since their independence in 1822 have had their origin in this State. The great revolution that placed the present Executive of Mexico in power had its beginning right at Matamoros and Brownsville. The Central Government of Mexico hold a large force of soldiers in Tamaulipas, and yet not a year passes without rebellions, robberies by wholesale, and invariably when intimidated the discomfited party flee to our side of the Rio Grande in a mood to appropriate anything they can lay their hands upon.

For these reasons alone Fort Brown must continue a military post; its facilities for transportation and the improvements already made upon the reservation make it preferable to any point on the Lower Rio Grande filling the necessary conditions.

The United States seized the Fort Brown reservation in March, 1846, and has occupied it to date without paying for the same or paying any compensation whatever for the use thereof, save that about 25 acres, used as a national cemetery, was acquired by condemnation proceedings in 1872, under the act of Congress dated February 22, 1867.

Counsel for the claimants say the reservation contains 358 acres, and the Attorney-General, December 22, 1887, gives those figures:

In 1853 condemnation proceedings instituted by the Secretary of War resulted in an award of $50,000, against which the owner protested and no action was taken.

In 1884 the Secretary of War offered $100,000 to settle the whole claim. The owner or owners refused it.

A suit at law, to which the Government was a party, terminated in the decision of the case of Cavazos *vs.* The United States (100 U. S. Rep.), in which the title was adjudged to vest in James Stillman and Thomas Carson, administrators of the Cavazos estate. All the parties to the suit acquiesced, and certain other persons not parties afterward appeared and released their claims. The United States holds deeds which the Attorney-General said, December 22, 1887, were "sufficient to vest in the United States a good and valid title to the tract of land known as the Fort Brown reservation" and "also to extinguish all claims for the use and occupancy of said reservation."

These conveyances were executed to answer the requirements of the act of March 3, 1885, but the said sum of $160,000 has not been paid, nor have the deeds been returned.

General Holabird, Quartermaster-General (now retired), in a letter dated April 22, 1884, said the estimates of the value of the site varied from $25,000 to $75,000. Citizens of Brownsville, including the clerk of the United States district court; Mr. Scanlan, an auctioneer and real estate appraiser; Mr. Cowen, the assessor of taxes for eight years, and others, give estimates of the present value ranging from $100,000 to $150,000. The city, now numbering 6,000, has built out to the reservation. Estimates of the value of the unimproved tract in 1846 would of course be much lower.

Under the act of March 3, 1873, authorizing the purchase of certain

sites in Texas, a board of army officers (General Holabird chairman), reported the following valuation of sites.

Fort Brown	$25,000
Fort Clark	7,000
Fort Concho	6,400
Fort Davis	9,000
Fort Duncan	10,920
Fort Griffin	4,200
Fort Mcintosh	3,000
Fort McKavett	15,000
Fort Quitman	3,840
Fort Stockton	12,000
Ringgold Barracks	10,000

Fort McKavett was abandoned in 1882. For seven years previous the rent was $1,200. At that rate the rent of Fort Brown would be $2,000. Fort Davis was leased for one hundred years at $900. Corresponding rate for Fort Brown, $2,500. From 1849 to 1883 Fort Duncan was leased at various rates rising from $1,400 to $3,600, averaging about $1,800; corresponding rate for Fort Brown, $4,100.

April 22, 1884, answering an inquiry from the House, General Holabird wrote:

> Respectfully returned to the honorable Secretary of War with report as follows: In the opinion of the Quartermaster-General the rental value of the site of Fort Brown from 1846 to 1866 was at least equal to $2,500 per annum, which, for twenty years, makes a sum of $50,000. There is no question in his mind that from 1866 to date the value of the rental considered relatively to prices paid for similar property in the State of Texas was, and is, at least $3,600 per annum, which for eighteen years gives a total sum of $114,800.

Adding $25,000 for the land the sum would be $139,800. This makes no account of interest nor of the taxes the owners have paid, nor of the enhanced value of the land.

December 12, 1888, General Stanley, commanding the department, said:

> The value of Fort Brown and reservation to the United States is to-day equal to the sum appropriated by Congress, March 1885.

Testifying before the House committee, General Holabird was asked:

> Do you not think that $50,000 for the fee and for the use of the property would be a fair thing to-day?

He replied:

> No, sir; I think that would be dropping out the rent from the time I stated. If I owned that place to-day I should want a little more than we have ever tendered. You would not get it for $200,000.

Six years have elapsed since General Holabird made his estimate of $114,800 for rent. At his rate of $3,600 a year, $21,600 should be added, making $136,400, or, including the $25,000 for the fee, a total of $161,400. But if General Holabird's rate of rent and the appraisal of 1853 be taken, the dues in 1890 are $186,400.

We are inclined to believe that the appraisal at $50,000 was too high, but the Government joined in the process and the judgment was never vacated.

When the appropriation of $160,000 in 1885 came up in the Senate it was quite fully debated and, by a large majority, the Senate refused to cut it down. The requirement that a "complete title" should be "vested in the United States" was complied with, as the Attorney-General declared, December 22, 1887.

The claimants filed an agreement for the division of the appropriation,

and the required deeds were tendered and accepted about three years ago, and they are now held by the Government. Five and one-half years have elapsed since Congress decided to end nearly forty of "possession without title, and occupation and use without rent or taxes" by tendering $160,000 in full for the fee and rent. If that sum was somewhat high, the lapse of time since the bill passed has added 14 per cent. to the claim for rent and loss of interest.

The committee make no recommendation adverse to the appropriation made by the act of March 3, 1885, and think that sum is fairly due.

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